

**TOWN OF TEMPLE
ZONING BOARD OF ADJUSTMENT
APPLICATION**

Revised June 2017

423 Route 45
PO Box 191
Temple, N.H. 03084

INSTRUCTIONS FOR SUBMITTING A COMPLETE APPLICATION

(Please read carefully)

For an application to be scheduled with the Zoning Board of Adjustment (ZBA), you shall submit the following items to the Temple Town Office:

1. Completed and signed ZBA Application Form. The application will not be placed on the ZBA agenda unless all required signatures are on the application.
2. Other information to provide (if applicable):
 - (a) Two (2) copies of a plot plan of the lot as shown on the Town Tax Map which shows the existing and proposed improvements, drawn to scale, along with existing and proposed setback distances.
 - (b) Pictures or construction plans showing all sides of the structure to which any improvements are proposed to be made.
 - (c) Any wetlands or aquifers shall be identified by a wetlands scientist for reference by the Conservation Commission. You shall meet with the Conservation Commission to discuss the proposal and receive a written report that will be forwarded to the ZBA prior to the FINAL public hearing.
3. Mailing Labels. Prepare mailing labels for all abutting property owners (as defined by RSA 672:3), licensed professionals on plan, owners, and applicants.
4. The required fees. See attached fee schedule.

Note: As an applicant, you must be familiar with each of the following:

- a. Temple Zoning Ordinance
- b. New Hampshire statutes on zoning (RSA's)
- c. Temple ZBA's Rules of Procedure.

Office Use Only Date Received: _____ Fees Paid: _____ Initialed: _____

1. Type of Application:

(check all that apply)

- Special Exception (See page 5)
- Variance (See page 6)
- Appeal of Administrative Decision (See page 8)
- Equitable Waiver of Dimensional Requirement (See page 9)

2. Applicant:

Name(s): _____
 Address: _____
 City: _____ State: _____ Zip: _____ Phone: _____
 Email: _____

3. Property Owner(s):

Name(s): _____
 Address: _____
 City: _____ State: _____ Zip: _____ Phone: _____
 Email: _____

4. Primary Contact:

Name(s) _____
 Phone: _____
 Email: _____
 Applicant Owner Attorney Surveyor/Engineer

5. Project Name: _____

Street Address: _____
 Tax Map: _____ Lot: _____
 Acreage: _____

6. Zoning District(s)

(check all that apply):

- Village and Historic Preservation
- Rural Residential and Agricultural
- Mountain

7. Request

Please explain what you are seeking from the ZBA. Specifically, what provision of Temple's zoning ordinance are you requesting relief from Article: _____, Section: _____, Paragraph: _____

PLEASE FILL OUT THE APPLICABLE SECTION BELOW FOR THE TYPE OF APPLICATION YOU ARE MAKING

i.e. Special Exception, Variance, Appeal from an Administrative Decision or Equitable Waiver of Dimensional Requirements.

Notes:

- (1) In addition to the information requested in this application, the Temple ZBA may request any additional information it deems necessary to make a decision regarding your application.
- (2) Please feel free to attach any additional information to this application that you feel would be helpful to the ZBA.

Section 1: SPECIAL EXCEPTION

Please submit documentation regarding how your application meets Temple's specific special exception standards below.

Temple Zoning Ordinance
Section 13A (2010)

Special Exception Standards:

- 1) The proposed use shall be set back at least five hundred feet from any existing dwelling of another owner; provided, however, that, at the discretion of the Board of Adjustment, this distance may be reduced in any amount to a minimum of two hundred feet, but only if written permission is obtained from the abutting owners affected;
- 2) The Board of Adjustment finds that the proposed use shall have off street parking which will be ample to serve the proposed use; provided, however, that any such off street parking shall, at a minimum, be set back at least fifty-five (55) feet from all lot lines.
- 3) The proposed use shall not adversely affect the value of adjacent property. An adverse effect on adjacent property is one which would be obnoxious or injurious or limit the use of neighborhood property by causing such problems as excessive noise, odor, smoke, refuse matter, vibration, traffic, dust, fumes, light, glare, drainage, or other conditions that are associated with the intended use but are not typical of permitted uses within the area.
- 4) The proposed site shall be in an appropriate location for the use. Among the factors the Board of Adjustment will consider are: lot size, topography, soils, water resources, road access and locations of driveways, condition of existing structures and other relevant characteristics such as whether the proposed use is compatible with the surrounding land uses.
- 5) No hazardous waste shall be permanently stored on or disposed of on the property.
- 6) Traffic generated by the proposed use shall not present a safety hazard to the community for either vehicles or pedestrians, nor shall it cause excessive wear and tear to town roads.
- 7) Appropriate buffering landscaping shall be provided within the setback areas, of a type and amount deemed appropriate by the Planning Board during Site Plan Review.
- 8) The Board of Adjustment shall, when appropriate, request a recommendation from the Planning Board, the Conservation Commission, Road Agent and/or the Health Officer concerning the proposed use.

Section 2: VARIANCE

In order for the ZBA to grant a Variance, it must determine that each of the following conditions are met. At the time of application for a Variance, you must submit documentation regarding the following conditions which, in your judgment, are relevant including discussions with and responses from neighbors.

You must provide answers to the following five questions:

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

2. The spirit of the ordinance is observed because:

3. Substantial justice is done because:

4. The values of surrounding properties are not diminished because:

Section 2: VARIANCE (continued)

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

(a) For purposes of this paragraph, “unnecessary hardship” means that special conditions of the property distinguish it from other properties in the area.

(i) Owing to these special conditions, 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:

(ii) And, the proposed use is a reasonable one since:

(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 following special conditions of the property make the variance necessary in order to enable a reasonable use of it:

Section 3: APPEAL FROM AN ADMINISTRATIVE DECISION
UNDER NH RSA 676:5

For an Administrative Appeal request, please answer the following questions:

1. What decision you are appealing? Attach copy of that decision.

2. What in your opinion was the error in this decision?

3. When was the decision that you are appealing made? _____

Note:

The appeal period as specified by the ZBA's Rules of Procedure is **30 days** from the date of the administrative decision.

If your appeal has to do with the denial of a building permit, you must meet all of the requirements of RSA 674:41 in order to receive relief.

Section 4: EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

In order for the ZBA to grant an Equitable Waiver of Dimensional Requirements, it must determine that all of the conditions below are met. After each condition, please explain why you believe that condition has been met.

Note: Instead of the information required by the ZBA under paragraphs 1 through 4 below, the applicant may demonstrate to the satisfaction of the ZBA that the violation has existed for ten (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 Town or any person directly affected.

Conditions:

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.

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 Town official in the process of issuing a permit over which that official had authority.

3. The physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, not interfere with or adversely affect any present or permissible future uses of any such property; and

4. Due to the extent of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

Attachment 1

Zoning Board of Adjustment Application Fee

A fee will be charged sufficient to cover the ZBA’s administrative fee, the mailing of legally-required notices and placing a notice in the local paper. The ZBA is authorized to select and retain outside technical, investigative, or legal assistance when the ZBA deems such assistance to be necessary to properly evaluate any application and the ZBA may charge those expenses to the applicant.

1. Application fee:	\$ 150.00
2. Required notices: \$ _____ x _____ *	\$ _____
3. Newspaper notice: **	\$ _____
4. Professionals retained by the ZBA: ***	\$ _____
5. Total Application Fee	\$ _____

Notes to above:

- * Actual cost times number of notices
- ** Actual cost
- *** To be assessed by ZBA

To find out about specific fees, or to get answers to questions, contact the Town Office at 878-2536.

Office Use Only
Date Received: _____
Fees Paid: _____
Initialed: _____