

**TOWN OF BRISTOL ZONING BOARD APPLICATION:
INSTRUCTIONS FOR APPLICANTS**

IMPORTANT:

READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING ATTACHED APPLICATION.

The board strongly recommends that, before making an appeal, you become familiar with the Zoning Ordinance and with New Hampshire Statutes TITLE LXIV, RSA Chapters 672-677. The state rules and regulations are available on line at nh.gov. The town ordinance is available on line at townofbristolnh.org.

All applications must include a list of all abutters, including their current mailing address, property address and tax map number. The definition for "Abutter" is on the last page of these instructions. Please note: For the purposes of notification, the applicant and his representative(s) are considered abutters and must be included on the list.

All applications must be presented to the board by the property owner or the property owner's designee, which must be one of the following:

1. The holder of a valid purchase and sale agreement for the purchase of the subject property.
2. The holder of a valid option for purchase of the subject land.
3. Applications submitted by the property owner's representative must submit a notarized statement authorizing the representative to act on the owner's behalf.

It is the obligation of the applicant to submit to the board, through the Land Use Enforcement Officer, adequate plans and exhibits in accordance with the terms of the zoning ordinance. The **minimum** requirements for submission are as follows:

1. Name of petitioner
2. Title of petition (Variance, Appeal from Administrative Decision, Special Exception or Equitable Waiver of Dimensional Requirements).
3. Narrative explaining the request and answers to the questions (provided on page 2).
4. Scaled plot plan/survey with lot dimensions, distances of all existing and proposed structures to lot lines, buffer zones, landscaped areas, recreational areas, paved or graveled areas, signs, rights-of-way, streams, wetlands, drainage and all easements.
5. Existing and proposed buildings, additions or other structures with their dimensions, including height, length and width.
6. All setback dimensions as required in the zoning ordinance for the district.
7. Computed lot and building areas with percent of lot coverage.
8. Location and number of parking spaces and traffic lanes.
9. Required loading and unloading and trash dumpster areas.
10. Abutting streets and/or public ways.
11. North arrow and locus map.
12. Photographs of the existing conditions, elevations of the proposed improvements and any other materials that will support the request.
13. Department of Transportation application, if applicable.
14. Department of Environmental Services application for well/septic design, if applicable.
15. Department of Environmental Services Comprehensive Shore Land Protection Application, if applicable.
16. Abutter list (verified by Assessing Office), three (3) sets of mailing labels on Avery 5160 or equal, \$50.00 application fee, \$50.00 advertisement fee and \$10.00 per abutter fee.

NOTE: Separate applications, on forms provided by the clerk, must be filed for each request. The applicant is required to provide the original collated set, together with thirteen (13) collated sets of copies for distribution to the board. Submissions received after the deadline will not be considered until the next regularly scheduled meeting. The board reserves the right to refuse applications which do not meet the minimum requirements. Public hearings will not be held until such time as the submitted application has been accepted by the board, as complete. There will be no exceptions.

THREE TYPES OF APPEALS:

1. **Variance:** a variance is an authorization, which may be granted under special circumstances, to use the 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 prove that your proposed use meets **all five** of the following conditions (answer all questions, including sub-questions.):

Under RSA 674:33 Powers of Zoning Board of Adjustment. –

I. The zoning board of adjustment shall have the power to:

(b) Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if: **(EMPHASIS IS TOWN OF BRISTOL, LAND USE OFFICE):**

(1) **The variance will not be contrary to the public interest;**

(2) **The spirit of the ordinance is observed;**

(3) **Substantial justice is done;**

(4) **The values of surrounding properties are not diminished; and**

(5) **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(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; and

(ii) The proposed use is a reasonable one.

(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 definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

2. **Appeal from Administrative Decision:** If you have been denied a land use permit, or are affected by some other decision regarding the administration of the 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. The appeal will be granted if you can prove the decision was, indeed, made in error. **If you are appealing an administrative decision, a copy of the decision appealed from must be attached to your application. The appeal must be received within thirty (30) days of the date of the decision being appealed.** In the event that the appeal from administrative decision is not granted by the board, you may wish to include an application for a variance to enable you to proceed to obtain the necessary approvals.

3. **Special Exception:** Certain sections of the zoning ordinance provide that a particular use of the property in a particular zoning district, will be permitted by special exception, if specified conditions are met. The necessary conditions for a special exception are given in Section 5.4A of the zoning ordinance. Your appeal for a special exception will be granted if you can prove that the conditions stated in the ordinance are met. If the board approves an application for a special exception, it may also impose conditions it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of the zoning ordinance. For a list of these conditions, see Section 5.4B of the zoning ordinance. If you are applying for a special exception, you may also need site plan or subdivision approval, or both, from the Planning Board.

4. **Equitable Waiver of Dimensional Requirements:** The board may grant an equitable waiver only for existing dimensional nonconformities provided the applicant can meet the required standards:

1. The nonconformity was not discovered until after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser.
2. The nonconformity was not an outcome of ignorance of the law or bad faith but was, instead, caused by a legitimate mistake

If these conditions are satisfied, the board may move on to additional findings to grant the waiver:

3. The nonconformity does not constitute a public or private nuisance nor diminish the value or interfere with the future uses of other property in the area.

4. The cost of correction would far outweigh any public benefit to be gained. In lieu of 1. and 2., the violation has existed for ten (10) years or more with no enforcement action, including written notice, commenced by the town.

The original application, fees and all required supporting documents must be received in the Land Use Office by 1:00 PM, the first Friday of the month for the following month's meeting. The application may be mailed or delivered. Cut off dates for all boards are posted on line at townofbristolnh.org. Electronic submissions are not permissible. After the application is reviewed by the Land Use Enforcement Officer, you will be notified of any deficiencies. **The materials (one (1) original and thirteen (13) copies) must be received by the second Monday of the month by 1:00 PM. All submitted information is the sole responsibility of the applicant.** Failure to timely supply all the required information in collated sets, in the order of the checklist, may result in delays. It is within the express purview of the board to accept, reject and/or continue any application if, in its opinion, it is not in receipt of the required information.

The board schedules public hearings for the first Tuesday of each month. Public notice of the hearing will be posted and printed in a newspaper having general circulation in the Town of Bristol. The notice will be posted by certified mail to you, your representative(s) and all abutters, including any other parties which the board deems to be an interested party, or as required by state statute, a minimum of five (5) days before the hearing date. You and all interested parties will be invited to appear in person or by agent/counsel to state the reasons why the appeal should, or should not be granted. Please note that your case will be heard regardless of attendance. Once the board has considered the matter and made a determination, you will be provided with a Notice of Decision.

If your application is denied, you have the right to appeal the decision of the board. The Selectmen, or any party affected by your case, have similar rights of appeal. Before an appeal is considered by the board, a Motion for Rehearing, setting forth the grounds on which it is claimed the decision is unlawful or unreasonable, must be filed within thirty (30) days of the date the decision is filed and first becomes available for public inspection in the Town Offices.. The motion may be in the form of a letter to the board. The board may grant such a hearing if, in its opinion, good reason is stated in the motion. The board will not reopen the case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested one before proceeding to the courts for an appeal. When a rehearing is held, the same procedures are followed as for the original hearing. **The applicant requesting the Motion for Rehearing is responsible for all fees, including application, public notices and notices to abutters.**

Under RSA 672:3 Abutter. –“ Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.”

FEE SCHEDULE:

Application fee:	\$ 50.00
Advertisement fee:	<u>\$ 50.00</u>
Subtotal	\$100.00
PLUS	
Abutter notice fee:	\$10.00 x number of abutters, including applicant/applicant's representative(s)

If you have any questions, please contact the Land Use Officer at mbonsteel@townofbristolnh.org or 603-744-3354.

TOWN OF BRISTOL
VARIANCE APPLICATION

Reformatted & Revised March 2010

To: Zoning Board of Adjustment

Do not write in this space
Case No: _____
Date filed: _____
Rec'd by: _____

Name of applicant _____

Address _____

Owner (If different) _____

Location of property Map and Lot(s) _____

APPLICATION FOR A VARIANCE

A variance is requested from Article _____ Section _____ of the zoning ordinance to permit: (DESCRIBE THE REQUEST)

Facts in support of granting the variance:

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

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

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

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

TOWN OF BRISTOL
VARIANCE APPLICATION

5. Unnecessary Hardship (Answer Ai, Aii and B)

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:

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.

Applicant _____ Date _____
(Signature)

NOTE: This application is not acceptable unless all required statements have been addressed. Additional information may be supplied on separate pages if the space provided is inadequate.

Zoning Board Hearing Date(s): _____

Decision: _____ AYE _____ NAY

Conditions: _____

SIGNATURE

DATE

TOWN OF BRISTOL ZONING BOARD CHECKLIST

This checklist must be completed in its entirety and attached as the first page of your application on all fourteen (14) sets.
Please refer to the complete instructions provided with the application.

REQUIREMENT:	APPLICANT:	LAND USE:	BOARD:
Completed application:	attached: _____	verified: _____	accepted: _____
Abutter list: (3 sets of small mailing labels)	attached: _____	verified: _____	accepted: _____
Proof of representation:	attached: _____	verified: _____	accepted: _____
Name of petitioner:	_____		
Title of petition:	_____		
Address of property:	_____ Map # _____		Lot(s) _____
Narrative:	attached: _____	verified: _____	accepted: _____
Scaled plot plan/survey:	attached: _____	verified: _____	accepted: _____
All building(s) dimensions:	attached: _____	verified: _____	accepted: _____
All setback dimensions:	attached: _____	verified: _____	accepted: _____
Lot coverage calculations:	attached: _____	verified: _____	accepted: _____
Parking/travel lanes:	attached: _____	verified: _____	accepted: _____
Loading/dumpster zones:	attached: _____	verified: _____	accepted: _____
Streets & r-o-w's:	attached: _____	verified: _____	accepted: _____
North arrow and locus map:	attached _____	verified: _____	accepted: _____
Photos/elevations:	attached: _____	verified: _____	accepted: _____
DOT application:	attached: _____	verified: _____	accepted: _____
DES well/septic:	attached: _____	verified: _____	accepted: _____
DES CSPA:	attached: _____	verified: _____	accepted: _____

By signing this checklist, I, the undersigned, do herein acknowledge the receipt of the instructions and application, that I have read the instructions and have provided all the required information, including the reasons supporting my application to the board.

PRINT NAME

SIGNATURE

DATE

TOWN OF BRISTOL ABUTTER NOTIFICATION LIST

Page ___ of ___

Names and address should be those of current owners as recorded in the Tax Records five (5) days prior to submission of this application. Be sure to include applicant, agent (if applicable), surveyor, engineer, any other professionals of the official plan used, and all abutters, including those across a street, brook or stream. If more room is needed, copy this sheet and attach. Be sure to make note of how many abutter sheets you are submitting in the space provided above.

Owner's Name _____	Tax Map # _____
Mailing Address _____	Lot # _____
City _____	State _____ Zip Code _____
Owner's Name _____	Tax Map # _____
Mailing Address _____	Lot # _____
City _____	State _____ Zip Code _____
Owner's Name _____	Tax Map # _____
Mailing Address _____	Lot # _____
City _____	State _____ Zip Code _____
Owner's Name _____	Tax Map # _____
Mailing Address _____	Lot # _____
City _____	State _____ Zip Code _____
Owner's Name _____	Tax Map # _____
Mailing Address _____	Lot # _____
City _____	State _____ Zip Code _____
Owner's Name _____	Tax Map # _____
Mailing Address _____	Lot # _____
City _____	State _____ Zip Code _____
Owner's Name _____	Tax Map # _____
Mailing Address _____	Lot # _____
City _____	State _____ Zip Code _____

Verified by the Town Assessing Office Date: _____ By: _____

EFFECTIVE JANUARY 1ST, 2010 FOR ZBA APPLICATIONS

674:33 Powers of Zoning Board of Adjustment. –

I. The zoning board of adjustment shall have the power to:

(a) Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and

(b) Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if: **(EMPHASIS IS TOWN OF BRISTOL, LAND USE OFFICE: THESE ARE THE QUESTIONS REQUIRED TO BE ANSWERED IN THE NARRATIVE PROVIDED TO THE ZBA.)**

(1) The variance will not be contrary to the public interest;

(2) The spirit of the ordinance is observed;

(3) Substantial justice is done;

(4) The values of surrounding properties are not diminished; and

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(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; and

(ii) The proposed use is a reasonable one.

(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 definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

II. In exercising its powers under paragraph I, the zoning board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

III. The concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass.

IV. A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.

V. Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.