



TOWN OF BRISTOL
ZONING BOARD APPLICATION

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

IMPORTANT: READ ALL INSTRUCTIONS CAREFULLY BEFORE FILLING OUT ATTACHED APPLICATION

The board strongly recommends that, before making any appeal, you become familiar with the zoning ordinance, and also with the New Hampshire Statutes TITLE LXIV, RSA Chapters 672- 677, covering planning and zoning. Please visit www.townofbristolnh.org for more information.

Four types of appeals 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:

- I. The variance will not be contrary to the public interest.
- II. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.
 - a. Applicant seeking **use** variance – *Simplex* analysis
 - i. The zoning restriction as applied interferes with a landowner’s reasonable use of the property, considering the unique setting of the property in its environment.
 - ii. No fair and substantial relationship exists between the general purpose of the zoning ordinance and the specific restriction on the property.
 - iii. The variance would not injure the public or private rights of others.
 - b. Applicant seeking **area** variance – *Boccia* analysis
 - i. An area variance is needed to enable the applicant’s proposed use of the property given the special conditions of the property.
 - ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for he applicant to pursue, other than an area variance.
- III. The variance is consistent with the spirit of the ordinance.
- IV. Substantial justice is done.
- V. The value of surrounding properties will not be diminished

(From: *Boccia v. City of Portsmouth*, 151 N.H. 85 [2004])

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 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 appealing an administrative decision, a copy of the decision appealed from must be attached to your application. **The appeal must be received within 30 days of the decision being appealed.**

SPECIAL EXCEPTION: Certain sections of the zoning ordinance provide that a particular use of property in a particular zone, 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 show that the conditions stated in the ordinance are met. If the board approves an application for a Special Exception, it may also impose additional 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

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.

- a) 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;
- b) 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 can move on to the additional findings to grant the waiver:

- c) The nonconformity does not constitute a public or private nuisance nor diminish the value or interfere with future uses of other property in the area; and
- d) The cost of correction would far outweigh any public benefit to be gained.

In lieu of the requirements in paragraphs (a) and (b), the violation has existed for 10 years or more with no enforcement action, including written notice, commenced by the town.

Prepare a list of all abutting property owners, have it verified at the city/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 to the clerk of the board or to the office of the board of selectmen. A fee is charged sufficient to cover the cost of preparing and mailing the legally-required notices. Make check payable to city/town of Bristol and remit with your application.

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, and notice will be mailed to you and to all abutters and to other parties whom 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. Please note that your case will be heard regardless of attendance.

After the public hearing, the board will reach a decision. You will be sent a notice of decision.

If you believe the board's decision is wrong, you have the right to appeal. The selectmen, or any party affected, have similar rights to appeal the decision in your case. To appeal, you must first ask the board for a rehearing. The Motion for Rehearing may be in the form of a letter to the board. The motion must be made within 30 days after the decision is filed and first becomes available for public inspection in the Town Hall, and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The board may grant such a rehearing if, in its opinion, good reason is stated in the motion. The board will not reopen a 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 you can appeal to the courts. When a rehearing is held, the same procedure is followed as for the first hearing, including public notice and notice to abutters.

APPLICATIONS

All applications for hearings before the board must be made on forms provided by the clerk of the board and submitted not less than 20 days prior to the scheduled meeting date. Submissions received after the deadline will not be considered until the next regular meeting.

All applications must include a list of all abutters including their current address and tax map number. An abutter is any person whose property adjoins, or is directly across the street or stream from the property under consideration. An abutter also includes the applicant (property owner if different than applicant), surveyor or any person designated to represent the property owner on the application.

All applications must be presented to the board by the property owner or 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 land
2. The holder of a valid option for purchase of the subject land

It is the obligation of the applicant to submit to the board, through the clerk, adequate plans and exhibits in accordance with the terms of the zoning ordinance.

Minimum requirements for adequate plans shall include the following:

1. Name of petitioner(s)
2. Title of petition (Variance/Special Exception)
3. The lot dimensions, buffer zones, landscaped areas, recreational areas, signs, rights-of-way, streams, wetlands, drainage and easements
4. All existing and proposed buildings, additions, or other structures with their dimensions
5. All setback dimensions and building heights
6. Computed lot and building areas with percentages of lot coverage
7. Location and number of parking spaces and traffic lanes
8. Required loading, unloading and trash areas
9. Abutting Streets

The board reserves the right to refuse applications which do not meet the minimum requirements. Public hearings will not be scheduled, advertised or held until such time as the submitted application is in full conformity with board requirements.

Please note a separate application must be filed for each appeal.

Applications submitted by a property owner's representative must submit a notarized statement authorizing the representative to act on the owners behalf.

FEE SCHEDULE

\$50.00 – Application fee for all applications

\$35.00 – Advertisement fee for all applications

\$10.00 – Abutters notice fee per abutter including applicant

Tips for applying for a variance

1. **Know your variance** - The first thing you should be aware of is whether you are applying for a “USE” or “AREA” variance.
A use variance will apply if you want to use your property in such a way that is not permitted by the Zoning Ordinance. An example of this would be starting a Daycare Facility in a Residentially Zoned neighborhood.
An area variance will apply if you want to locate something on your property in an area that is not allowed such as in a setback.
2. **Prepare** - Study and prepare answers for the Five Variance Criteria. (These Criteria are attached to your application) It is very important to understand that the law requires you to meet ALL five criteria in order for the board to grant your variance. Failing a single criteria will leave the board no choice but to deny your variance.
3. **Presentation Materials** – It is always a good idea to graphically present your case. A picture, map, plan, or any other material that can allow the board to see visually what you are trying to do is very welcome.
4. **Organize** – Keep in mind that there are Five members of the Zoning Board that will hear your case. If you are going to be presenting materials such as maps or plans, or any other type of printed material you should make enough copies for everyone, as well as one for the Clerk. Additionally, if you have more than a couple of pieces, you should number all the pieces and refer to the number when you are referring to the printed material. This will allow all the members of the board to follow along with your presentation in an orderly manner. The last thing you want to see is board members flipping through papers trying to find what it is you are talking about.
5. **Always speak through the chair** – During your hearing there will be a time when the board will ask for public comment. You should NEVER attempt to address a member of the public directly. If you would like to comment on what a member of the public is saying, write down your comments, and at the appropriate time you may ask the Chairman to speak to the concerns of the public. When doing so however please speak directly to the board, and not the person(s) in the audience.

Finally, you should understand that the Bristol Zoning Ordinance is in place for the protection of the people of Bristol as a whole. There are strict criteria for granting a variance and in the end some variances will be denied. Please understand that the Bristol Zoning Board of Adjustment is made up of volunteers who care deeply about our town. We make our decisions based on what we believe is best for the town we care so much about.

APPLICATION FOR A USE VARIANCE

Name of applicant _____
Address _____
Phone Number of Applicant _____

Owner of Property _____
Location of property _____
Tax Map Number _____ Lot Number _____
Zoning District _____
Feet of Frontage _____ Area in Square Feet _____
Description of Existing Use _____

A Variance is requested from Article _____, Section _____
of the Zoning Ordinance to permit _____

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

Applicant is advised that the ZBA applications and decisions must meet certain criteria as addressed in Article V of the Zoning Ordinance. Applicant is advised that these criteria should be submitted in writing to the ZBA at the time of the hearing. Failure to meet the criteria for application as in Article V of the Zoning Ordinance may result in delays in consideration of the application. Failure to address the criteria as outlined in Article V of the Zoning Ordinance required for a variance will result in the denial of this appeal. Applicant hereby acknowledges that they understand they must meet the application criteria as well as all of the information provided in this application is true and correct.

Applicant's Signature _____ Date _____
~~~~~

*For Town Use Only*  
Date Received \_\_\_\_\_ Received By \_\_\_\_\_ Fee Collected \_\_\_\_\_  
Case Number \_\_\_\_\_ Date of Hearing \_\_\_\_\_  
Date Approved \_\_\_\_\_ Date Rejected \_\_\_\_\_  
Reason for Rejection \_\_\_\_\_  
\_\_\_\_\_

**APPLICATION FOR AN AREA VARIANCE**

|                                 |
|---------------------------------|
| Name of applicant _____         |
| Address _____                   |
| Phone Number of Applicant _____ |

|                                                  |
|--------------------------------------------------|
| Owner of Property _____                          |
| Location of property _____                       |
| Tax Map Number _____ Lot Number _____            |
| Zoning District _____                            |
| Feet of Frontage _____ Area in Square Feet _____ |
| Description of Existing Use _____                |
| _____                                            |
| _____                                            |

|                                                           |
|-----------------------------------------------------------|
| A Variance is requested from Article _____, Section _____ |
| of the Zoning Ordinance to permit _____                   |
| _____                                                     |
| _____                                                     |
| _____                                                     |

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Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_  
~~~~~

<i>For Town Use Only</i>		
Date Received _____	Received By _____	Fee Collected _____
Case Number _____	Date of Hearing _____	
Date Approved _____	Date Rejected _____	
Reason for Rejection _____		

APPLICATION FOR A SPECIAL EXCEPTION

Name of applicant _____
Address _____
Phone Number of Applicant _____

Owner of Property _____
Location of property _____
Tax Map Number _____ Lot Number _____
Zoning District _____
Feet of Frontage _____ Area in Square Feet _____
Description of Existing Use _____

Description of proposed use showing justification for a special exception as specified in the zoning ordinance article _____ section _____

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

Applicant is advised that the ZBA applications and decisions must meet certain criteria as addressed in Article V of the Zoning Ordinance. Applicant is advised that these criteria should be submitted in writing to the ZBA at the time of the hearing. Failure to meet the criteria for application as in Article V of the Zoning Ordinance may result in delays in consideration of the application. Failure to address the criteria as outlined in Article V of the Zoning Ordinance required for a variance will result in the denial of this appeal. Applicant hereby acknowledges that they understand they must meet the application criteria as well as all of the information provided in this application is true and correct.

Applicant's Signature _____ Date _____
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*For Town Use Only*  
Date Received \_\_\_\_\_ Received By \_\_\_\_\_ Fee Collected \_\_\_\_\_  
Case Number \_\_\_\_\_ Date of Hearing \_\_\_\_\_  
Date Approved \_\_\_\_\_ Date Rejected \_\_\_\_\_  
Reason for Rejection \_\_\_\_\_  
\_\_\_\_\_

**APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL  
REQUIREMENTS**

Name of applicant \_\_\_\_\_  
Address \_\_\_\_\_  
Phone Number of Applicant \_\_\_\_\_

Owner of Property \_\_\_\_\_  
Location of property \_\_\_\_\_  
Tax Map Number \_\_\_\_\_ Lot Number \_\_\_\_\_  
Zoning District \_\_\_\_\_  
Feet of Frontage \_\_\_\_\_ Area in Square Feet \_\_\_\_\_  
Description of Existing Use \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

An Equitable Waiver of Dimensional Requirements is requested from article \_\_\_\_\_  
section \_\_\_\_\_ of the zoning ordinance to permit \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Applicant is advised that the ZBA applications and decisions must meet certain criteria as addressed in Article V of the Zoning Ordinance. Applicant is advised that these criteria should be submitted in writing to the ZBA at the time of the hearing. Failure to meet the criteria for application as in Article V of the Zoning Ordinance may result in delays in consideration of the application. Failure to address the criteria as outlined in Article V of the Zoning Ordinance required for a variance will result in the denial of this appeal. Applicant hereby acknowledges that they understand they must meet the application criteria as well as all of the information provided in this application is true and correct.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_  
~~~~~

For Town Use Only
Date Received _____ Received By _____ Fee Collected _____
Case Number _____ Date of Hearing _____
Date Approved _____ Date Rejected _____
Reason for Rejection _____

APPLICATION FROM AN ADMINISTRATIVE DECISION

Name of applicant _____
Address _____
Phone Number of Applicant _____

Owner of Property _____
Location of property _____
Tax Map Number _____ Lot Number _____
Zoning District _____
Feet of Frontage _____ Area in Square Feet _____
Description of Existing Use _____

Relating to the interpretation and enforcement of the provisions of the zoning ordinance.
Decision of the enforcement officer to be reviewed _____

_____ Date _____
article _____ section _____ of the zoning ordinance in question _____

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

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Applicant's Signature _____ Date _____
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*For Town Use Only*  
Date Received \_\_\_\_\_ Received By \_\_\_\_\_ Fee Collected \_\_\_\_\_  
Case Number \_\_\_\_\_ Date of Hearing \_\_\_\_\_  
Date Approved \_\_\_\_\_ Date Rejected \_\_\_\_\_  
Reason for Rejection \_\_\_\_\_  
\_\_\_\_\_