

# ZONING BOARD OF APPEALS APPLICATION

## Town of Waterboro

24 Townhouse Road  
East Waterboro, Maine 04083

Dear Applicant/Agent for an Appeal:

In order for the Board of Appeals to consider a case, the law requires that you present the Board with a complete application. The purpose of this letter is to provide you with instructions on how to meet your responsibilities, so the Board may hear your case in a timely manner.

Before filing an application, you should review the Town's ordinance(s) and make sure you understand why your permit application was denied or any other basis of your appeal to the Zoning Board of Appeals. If you do not know what zoning district your property is in or specific zoning restrictions on the property, you may obtain this information from the Code Enforcement Officer.

Next, you must provide the Board with the information required on the form given to you. You must provide the Board of Appeals with proof that you have a legal interest in the property about which you are bringing an appeal, in addition to information about the property, including any details about its physical characteristics that may be relevant to your appeal.

Then you must decide what kind of appeal you wish to bring. Your options are to bring an administrative appeal or variance appeal. The Code Enforcement Officer may give you some guidance in making this decision, but ultimately it is your decision to make, not the CEO's. What are the differences?

- An administrative appeal is an appeal from a decision of either the CEO or the Planning Board. You may file an administrative appeal if you do not agree with the Town's interpretation of the ordinance or if you think the Town made some administrative error when processing your permit application. On the application you must explain what the decision said, what you want to do with your property, why you think the decision was wrong and relief you are seeking from the Board of Appeals.
- A variance appeal is used when you cannot meet one or more of the dimensional standards of the ordinance, such as setback, lot coverage, or parking space requirements. On the application you must illustrate precisely what dimensional standards you do not meet and exactly how much of a variance you seek. You will need to provide evidence to the Board that you meet all of the standards for the type of variance that you are seeking.

**An undue hardship is required for any type of variance in a shoreland zoning district, or any variance other than a dimensional variance, in any other district. The standards for an undue hardship variance are:**

***#1. That the land in question cannot yield a reasonable return unless the variance is granted.*** The Board will review your application to determine whether you can make a beneficial use of your property without a variance. A “reasonable return” in the eyes of the law does is not a maximum financial return. The Board may grant a lesser variance than you seek if it determines that the lesser variance will result in a reasonable return.

***#2. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.*** This standard requires a showing that your property is somehow different from other property in the neighborhood. Differences could include its shape, its topography, or its unique location.

***#3. The granting of a variance will not alter the essential character of the locality.*** To meet #3 you must prove to the Board that what you propose to do will not change the neighborhood or pose health or safety problems.

***#4. The hardship is not the result of action taken by the applicant or a prior owner.*** For this standard, you will need to present to the Board the history of how the property was created and developed over the years.

**For a dimensional variance for a property that is not located in whole or in part in a shoreland zoning district, you must meet all of the following standards:**

***#1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood; and***

***#2. The granting of variance will not produce an undesirable change in the character of the neighborhood and will not unreasonable detrimentally affect the use or market value of abutting properties; and***

***#3 The practical difficulty is not the result of action taken by the applicant or a prior owner; and***

***#4 No other feasible alternative to a variance is available to the applicant; and***

***#5 The granting of a variance will not unreasonable adversely affect the natural environment; and***

***#6. The property is not located in whole or in part within the shoreland area as described in 38 M.R.S.A. §435.***

As used in this section “dimensional standards” means and is limited to ordinance provisions related to lot area, lot coverage, frontage and setback of front, sides and rear requirements.

In addition to the standards for an undue hardship variance or a practical difficulty variance, Section 10.04.3 requires the Board to consider the following standards when reviewing any variance application:

1. Before a variance may be issued, the Board must determine, in addition to its finding of undue hardship or practical difficulty, that the granting of a variance would not negatively impact the best interest of the community; and
2. Undue hardship shall not be construed to include: self-imposed hardships; an inability to realize as great an economic gain as would be possible if the variance were granted; or a hardship that is not unique to the applicant's land; and
3. A variance, if granted, should necessitate only a slight departure from the stated requirements of an ordinance, usually not exceeding a fifteen (15) percent increase or decrease from the stated requirements; and
4. A variance, if granted, must not subvert the intent of the Town's Comprehensive Plan, this ordinance or local subdivision regulations as manifested in the language of the Plan or the particular provisions from which the variance is sought; and
5. A variance, if granted, must not have a harmful effect on the use of nearby land and structures insofar as that land is being used in conformity with state and local land use ordinances and regulations. The Board in granting a variance may attach appropriate conditions which will avoid harm to adjacent property owners and the public.

**BE SURE TO COMPLETE** the application form(s) and provide the Board with as much evidence in support of your case as you can. In addition to any written material submitted with the application, you may also bring to the hearing any witnesses you wish to have present evidence on your behalf about the property in question, any sworn written statements from individuals with personal knowledge of the property, and any documentation of previous building permits or ordinances.

An administrative appeal must be submitted to the Board of Appeals within 30 days of the issuance of the CEO's or Planning Board's decision in order for the appeal to be heard by the Zoning Board. The Board will not hear your appeal until you have provided them with a complete application. You are also **required** to submit a fee of \$700.00 in order for the application to be judged complete.

The Town will notify property owners of the hearing on your appeal as set forth in Article 9 Section 9.05 of the Zoning Ordinance. You are responsible for the costs of such notice.

In the event you are granted a variance, you must record the variance in the Registry of Deeds within 90 days according to state law in order for the variance to be valid. The Board of Appeals will provide you with the signed form.

Any decision of the Board is subject to reconsideration or appeal within 45 days of the Board's vote.

I have read and understand the above information.

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Applicant/Agent Signature

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Date

# Town of Waterboro, Maine

## Zoning Board of Appeals

24 Townhouse Road  
East Waterboro, Maine 04030

Telephone: (207) 247-6166 x121

email: ceosec@waterboro-me.gov

### APPLICATION FOR ADMINISTRATIVE APPEAL

Please print LEGIBLY.

Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Best contact number: \_\_\_\_\_

Town/State/Zip: \_\_\_\_\_

Email: \_\_\_\_\_ Tax Map# \_\_\_\_\_ Lot # \_\_\_\_\_

Physical Address: \_\_\_\_\_

Agent Information (if applicable):

Name: \_\_\_\_\_

Relationship to Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Town/State/Zip: \_\_\_\_\_

Best contact number: \_\_\_\_\_ Email: \_\_\_\_\_

Owner of Record: \_\_\_\_\_

Deed Information: Book \_\_\_\_\_ Page \_\_\_\_\_ Date of Recording: \_\_\_\_\_

An Administrative Appeal is being sought for the relief from the decision, or lack of a decision, of the Code Enforcement Officer or the Planning Board in regard to an application for a permit or use approval. The undersigned believes that: (Check one)

\_\_\_\_\_ An error was made in the denial of a permit or use.

\_\_\_\_\_ The denial was based on a misinterpretation of the ordinance.

\_\_\_\_\_ There had been a failure to approve or deny a permit or use within a reasonable period of time.

\_\_\_\_\_ Other – please specify: \_\_\_\_\_

1. Attach a copy of any relevant papers (applications, site drawings, decisions, etc.) concerning the decision by the Code Enforcement Officer or Planning Board.

2. Attach a recorded copy of the deed, sales agreement, or contract that gives you title, right, or interest in this appeal, whichever is most current.

3. Indicate what section(s) of the ordinance(s) that you believe is/are relevant to your appeal: \_\_\_\_\_

4. Attach a statement describing the facts concerning your filing appeal.

I hereby acknowledge that I have read this application and pertinent sections of the ordinances, and state that the information in this document is to the best of my knowledge true and accurate.

Applicant/Agent Signature: \_\_\_\_\_

Printed Name(s): \_\_\_\_\_

Date(s) Signed: \_\_\_\_\_

Rev 05/02/2023

# Town of Waterboro, Maine

## Zoning Board of Appeals

24 Townhouse Road  
East Waterboro, Maine 04030

Telephone: (207) 247-6166 x121

email: ceosec@waterboro-me.gov

### APPLICATION FOR UNDUE HARDSHIP VARIANCE APPEAL

Please print LEGIBLY.

Applicant (s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Best contact number: \_\_\_\_\_

Town/State/Zip: \_\_\_\_\_

Email: \_\_\_\_\_ Tax Map# \_\_\_\_\_ Lot # \_\_\_\_\_

Physical Address: \_\_\_\_\_

Agent Information (if applicable):

Name: \_\_\_\_\_

Relationship to Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Town/State/Zip: \_\_\_\_\_

Best contact number: \_\_\_\_\_ Email: \_\_\_\_\_

Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Town of Waterboro Zoning Board of Appeals (ZBA). If you need assistance for any unanswered questions, please feel free to contact: Code Enforcement Officer at (207) 247-6166 x121, leave message and you will be called back.

I hereby request that the Town of Waterboro Zoning Board of Appeals consider an application for undue hardship variance appeal. In requesting this variance, I understand that:

◇ I must show that without a variance, undue hardship would result.

◇ I must satisfy the legal test for undue hardship by showing that:

- A. That the land in question cannot yield a reasonable return unless the variance is granted; and
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood; and
- C. The granting of a variance will not alter the essential character of the locality; and
- D. The hardship is not the result of action taken by the applicant or a prior owner.

Owner of Record: \_\_\_\_\_

Deed Information: Book \_\_\_\_\_ Page \_\_\_\_\_ Date of Recording: \_\_\_\_\_

Attach a recorded copy of the deed, sales agreement, or contract that gives you title, right, or interest in this appeal, whichever is most current.

I hereby acknowledge that I have read this application and pertinent sections of the ordinances, and state that the information in this document is to the best of my knowledge true and accurate.

Applicant/Agent Signature: \_\_\_\_\_

Printed Name(s): \_\_\_\_\_

Date(s) Signed: \_\_\_\_\_

# Town of Waterboro, Maine

## Zoning Board of Appeals

24 Townhouse Road  
East Waterboro, Maine 04030

Telephone: (207) 247-6166 x121

email: ceosec@waterboro-me.gov

### APPLICATION FOR DISABILITY VARIANCE APPEAL

Please print LEGIBLY.

Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Best contact number: \_\_\_\_\_

Town/State/Zip: \_\_\_\_\_

Email: \_\_\_\_\_ Tax Map# \_\_\_\_\_ Lot # \_\_\_\_\_

Physical Address: \_\_\_\_\_

Agent Information (if applicable):

Name: \_\_\_\_\_

Relationship to Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Town/State/Zip: \_\_\_\_\_

Best contact number: \_\_\_\_\_ Email: \_\_\_\_\_

Owner of Record: \_\_\_\_\_

Deed Information: Book \_\_\_\_\_ Page \_\_\_\_\_ Date of Recording: \_\_\_\_\_

Attach a recorded copy of the deed, sales agreement, or contract that gives you title, right, or interest in this appeal, whichever is most current.

Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Town of Waterboro Zoning Board of Appeals (ZBA). If you need assistance for any unanswered questions, please feel free to contact: Code Enforcement Officer at (207) 247-6166 x121, leave message and you will be called back.

I need to make my property accessible to a person who resides in or regularly uses the dwelling.

Name(s) of person(s) disabled: \_\_\_\_\_

I/we expect this disability to last approximately: \_\_\_\_\_ Months or \_\_\_\_\_ Years



In requesting this disability variance, I understand that:

- ◇ Such a variance applies solely to the installation or equipment or structure necessary for access to and from the property by the disabled person(s); and
- ◇ The Board may require that the equipment or structure permitted by a disability variance be removed when there no longer is a disabled person living on the premises; and
- ◇ The granting of this variance must be recorded at York County Registry of Deeds by the Appellant/Agent within 90 of the approval; and
- ◇ If or when the lot or use ceases to be a single family residence, the setback reduction by this variance will be rescinded.

Please note that any medical records or other documents submitted to the Board for the purpose of describing or verifying the person’s disability are confidential pursuant to 30-A M.R.S.A. 2691 (4-A). For purposes of this variance, “disability has the same meaning as a physical or mental disability as defined in 5 M.R.S.A. Section 4353-A.

I hereby acknowledge that I have read this application and pertinent sections of the ordinances, and state that the information in this document is to the best of my knowledge true and accurate.

Appellant/Agent Signature(s): \_\_\_\_\_

Printed Name(s): \_\_\_\_\_

Date(s) signed: \_\_\_\_\_

# Town of Waterboro, Maine

## Zoning Board of Appeals

24 Townhouse Road  
East Waterboro, Maine 04030

Telephone: (207) 247-6166 x121

email: ceosec@waterboro-me.gov

### APPLICATION FOR SETBACK VARIANCE APPEAL

Please print LEGIBLY.

Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Best contact number: \_\_\_\_\_

Town/State/Zip: \_\_\_\_\_

Email: \_\_\_\_\_ Tax Map# \_\_\_\_\_ Lot # \_\_\_\_\_

Physical Address: \_\_\_\_\_

Agent Information (if applicable):

Name: \_\_\_\_\_

Relationship to Appellant(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Town/State/Zip: \_\_\_\_\_

Best contact number: \_\_\_\_\_ Email: \_\_\_\_\_

Owner of Record: \_\_\_\_\_

Deed Information: Book \_\_\_\_\_ Page \_\_\_\_\_ Date of Recording: \_\_\_\_\_

Attach a recorded copy of the deed, sales agreement, or contract that gives you title, right, or interest in this appeal.

Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Town of Waterboro Zoning Board of Appeals (ZBA). If you need assistance for any unanswered questions, please feel free to contact: Code Enforcement Officer at (207) 247-6166 x121, leave message and you will be called back.

**Variance from dimensional standards.** A municipality may adopt an ordinance that permits the board to grant a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood; and

B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties; and

C. The practical difficulty is not the result of action taken by the petitioner or a prior owner; and

D. No other feasible alternative to a variance is available to the petitioner; and

E. The granting of a variance will not unreasonably adversely affect the natural environment; and

F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Under its home rule authority, a municipality may, in an ordinance adopted pursuant to this subsection, adopt additional limitations on the granting of a variance from the dimensional standards of a zoning ordinance. A zoning ordinance also may explicitly delegate to the municipal reviewing authority the ability to approve development proposals that do not meet the dimensional standards otherwise required, in order to promote cluster development, to accommodate lots with insufficient frontage or to provide for reduced setbacks for lots or buildings made nonconforming by municipal zoning. As long as the development falls within the parameters of such an ordinance, the approval is not considered the granting of a variance. This delegation of authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws, Title 38, chapter 3, subchapter 1, article 2-B.

I hereby acknowledge that I have read this application and pertinent sections of the ordinances, and state that the information in this document is to the best of my knowledge true and accurate.

Appellant/Agent Signature: \_\_\_\_\_

Printed Name(s): \_\_\_\_\_

Date(s) signed: \_\_\_\_\_