



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

APPLICATION INSTRUCTIONS – VARIANCE

A variance is an authorization, which may be granted under unique 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 the proposed use meets all of the criteria of **NH RSA 674:33**. An application that fails to meet all five criteria within the variance application will be denied, a denial of any one of the Variance criteria will result in the application being denied.

Applications will only be considered complete if submitted with five (5) physical printed copies and one (1) digital copy of all application materials as detailed in the instructions below. Digital copies of application materials are to be sent to the Zoning Board of Adjustment Clerk at zoningclerk@rindgenh.gov with the subject line **ZBA Application for (Month) Consideration**. Please direct application questions to zoningclerk@rindgenh.gov.

Application deadlines are the first Tuesday of each month at the Rindge Town Office by 3p. Applications received after the deadline are subject to ZBA review and may not be accepted in the month's caseload.

Criteria for Completing Application:

1. Application forms are available at the Town Office and on the Web Site at www.rindgenh.gov. The most current form provided must be used. Non-current versions of the application will not be accepted or reviewed by the Zoning Board of Adjustment.
2. You are responsible for being familiar with the Zoning Ordinance provisions relevant to this Application, the ZBA Rules of Procedure, and applicable State Law. The Code Enforcement Officer and Planning office may assist you with the application process, but legal assistance and advice should be obtained from the Applicant's personal attorney.
3. Correctness of information submitted is the responsibility of the Applicant.
4. Applications must be complete and legible, either typed or printed in ink. Incomplete or illegible applications will be returned and must be resubmitted.
5. Zoning district information may be obtained from the Code Enforcement Officer or the Planning Office.
6. Applicants having questions regarding the application process may contact the Secretary of the Zoning Board of Adjustment.
7. **The application must be signed by the property owner.** A signature by anyone else or by other representation at the meeting must be approved in writing by the property owner.
8. Submit five (5) physical printed copies and one (1) digital copy of the following notification list with the names and mailing addresses for all legal abutters and neighbors according to your property's tax map and who will receive notification of the public hearing including:
 - a. Owner of property
 - b. Applicant (if different from owner)
 - c. Agent(s) (if different from owner & applicant and not already included in # f below)



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

- d. Owners of record of all abutting properties (directly abuts the lot in question or is directly across a street, road, or stream from the lot in question) as indicated in the Town Records not more than 5 days before the date of filing, identified by the map and lot numbers as shown on the Rindge Tax Maps.
 - e. All individuals or entities holding a mortgage or lien on the subject property as of the date the application is submitted
 - f. All individuals whose professional seal appears on any plan submitted; and,
 - g. All holders of conservation, preservation, or agricultural preservation restrictions as defined under **NH RSA 477:45**.
9. The following must also accompany your application at the time it is submitted:
- a. Submit five (5) physical printed copies and one (1) digital copy of any additional documents you wish the Board to consider at the public hearing (letters, deeds, etc.).
 - b. Submit five (5) physical printed copies and one (1) digital copy of a survey, plot plan or accurate scaled drawing must be submitted at a size of 8 ½” x 14” and 3 copies of full-size plans with a minimum size of 24” x 36”, if applicable, showing the location and dimensions of all structures, property lines, and other pertinent data, including adjacent streets and roads. If the application is for dimensional relief, an “As-built survey” performed to detail the horizontal and vertical positions of the physical improvements of all or part of a tract, parcel, or lot of land as defined in the New Hampshire Code of Administrative Rules Land 503.02 (a) shall be submitted. The survey needs to be made with enough detail to clearly delineate the area for which the dimensional relief is being sought. Three copies of the survey at its original scale shall be submitted. If the original plan to be submitted is larger than 11”x 17”, submit three full-sized plans and (11) eleven copies of the plan reduced in size to no larger than 11”x17”.
 - c. Submit five (5) physical printed copies and one (1) digital copy of one or more photos clearly showing the area of the property for which relief is being sought and one copy of a photo showing the entrance to the property from the main road to facilitate locating the property for inspection purposes. The property’s street number must be easily seen from the main road.
 - d. Application fee in the form of cash, check or money order. Fees are as follows:
 - 1-2 Single dwelling structures - \$250.00
 - 3 or more single dwelling structures - \$350.00
 - Commercial structures - \$500.00

Fees are required with the application. Fees are not refundable. Checks are to be made payable to the Town of Rindge.

- **Please note:** *The ZBA is authorized to retain the services of “consultants, investigative and/or legal services” and to impose reasonable fees upon an applicant for the expense of consultant services or investigative services, review of documents and other matters that may be required by a particular application. Such fees shall be subject to the provision of RSA 673:16, RSA 676:5-IV, RSA 676:5-V(a) and or other applicable law. All expenses shall be paid in full prior to issuing of the final written decision.*

All physical evidence submitted to the Board will be retained by the Board as part of the record of the petition.



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

In the case of dimensional approvals, **no** expansion or relocation within the setback except as reviewed and approved by the Board is allowed – please be sure the plan you submit is complete and accurate as to what you want to build. Approval of any variance relates only to what is specifically shown on the plan or proposed in the Application. Your completed application along with all other necessary paperwork and fees must be submitted to the Rindge Zoning Board of Adjustment at least 21 days prior to the date of the meeting you wish to attend. A date, time, and place will be set for the public hearing and notice will be sent to the Applicant and all other necessary individuals. The Town will publish notice of the meeting in a newspaper of general circulation. In signing the application form, the applicant authorizes members of the Board and/or staff to enter onto and view the premises for the purposes of understanding the request being made. Board members and/or staff may or may not choose to view the site. The site must be clearly marked with the e-911 street address to facilitate inspection. You or your representative must attend the Zoning Board hearing. If no one is present at the meeting to present your application, it will be denied without prejudice and the Applicant must refile. Decisions are usually rendered by the Board at the same meeting at which the public hearing is held. In some instances, decisions may be made at a later date. The findings of the Board will be forwarded to the Applicant by certified mail. The public hearing will be held first, with the Applicant or his representative presenting his petition. Following this, those wishing to speak in favor or in opposition may do so. All comments must be directed to the Chair. Everyone rising to address the Chair shall identify himself or herself, giving his or her name and address. Any physical evidence submitted during the public hearing in the form of plans, drawings, pictures, correspondence, etc. shall be kept by the Board as part of the permanent record of the application. Reasons are given for all decisions of the Board. If the Board wishes to wait to make a decision, the Applicant will be notified. Decisions will be announced by the Chair at the time they are made, with a copy mailed to the Applicant by certified mail. For additional information, see ZBA Rules and Regulations. Any party aggrieved by the decision of the Board has the right to appeal.

Refer to the Zoning Ordinance, RSAs or contact the Land Use Office for further information on requesting a rehearing and what form that request must take.

Please note: A request for rehearing may be filed no more than 30 days from the date the Board took the action being appealed. You must request a rehearing and the Board must act to grant or deny such request before you may appeal to the courts.



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

Town of Rindge Notification List

The following information shall be submitted, as required, as part of all Land Use applications. The list shall include all of the following:

The name and mailing address of the owners of all **abutting** properties, vacant or improved. The name and address shall be that taken from the Town records not more than 5 days before submission of the list.

The name and mailing address of all **professionals** whose seal appears on the plans being submitted as part of this application.

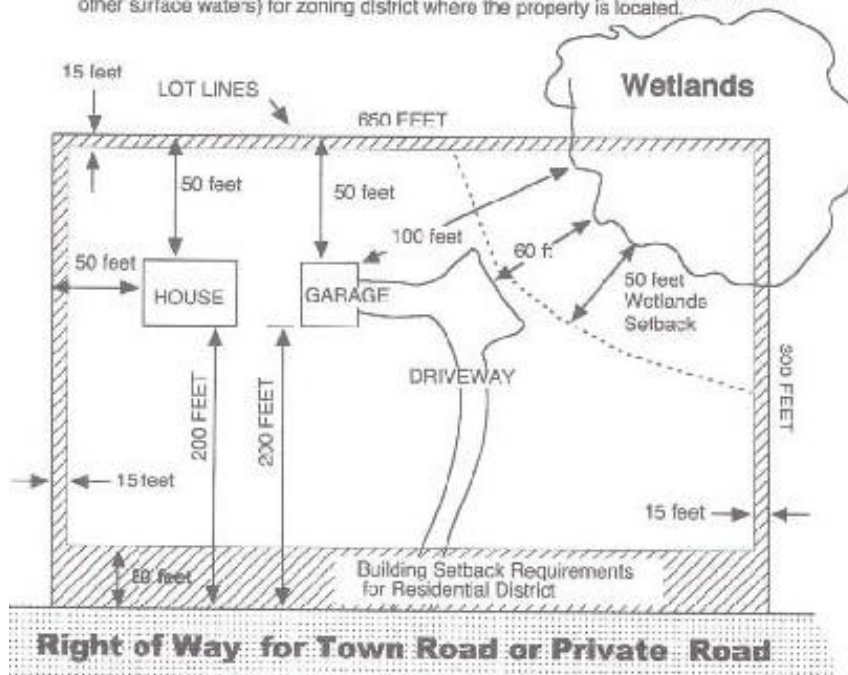
The name and mailing address of all parties holding a mortgage or **lien** on the property.

The name and mailing address of all parties holding a conservation, preservation, or agricultural preservation **restriction on** the property.

Plot Plan Drawings Requirements

All Board of Adjustment applications must be accompanied by a plot plan with the following requirements:

- * Must be drawn to scale
- * Show all proposed and existing buildings (including, sheds, etc.)
- * Show measurements to all boundaries from all buildings, existing & proposed
- * Show all wetlands with measurements to existing buildings, proposed buildings, & driveways including parking areas
- * Show building and wetlands setback requirements (including lakes, streams, and other surface waters) for zoning district where the property is located.





RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

VARIANCE APPLICATION

DO NOT WRITE IN THIS BOX— FOR OFFICE RECORDS ONLY

Date Filed: _____

Case No: _____

Amount Paid: \$ _____

Abutter List Attached Yes No

Check # _____

Name(s) of applicant: _____

Address: _____

Owner: _____

If owner name is same as applicant - write n/a

Telephone Number: _____ **Email address:** _____

Physical address of property: _____

Tax Map/Lot No.: _____ **Lot Size:** _____

Zoning District: _____

NOTE: This application is not acceptable unless all five criteria have been addressed. It is the applicant's responsibility to prove facts sufficient to support a variance. Additional information may be supplied on a separate sheet if the space provided is inadequate.

Fees are required to be submitted with the application. In the case of financial hardship, contact the Overseer of Welfare at the Town Office.

Application fees are as follows:

- \$250.00 for 1-2 Single dwelling structures
- \$350.00 for 3 or more single dwelling structures
- \$500.00 for Commercial structures.
- Multi-lot developments of three or more lots will be charged an additional \$150.00.

A variance is requested from Article _____ **Section** _____ **of the** _____

Ordinance to permit: _____



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

Facts supporting this request:

1. The variance will not be contrary to the public interest. RSA 674:33, I(a)(2)(A).

- a. Explain how the granting the variance will not change the character of the neighborhood, or threaten public health, safety, or welfare:

A variance is contrary to the public interest if it violates "basic zoning objectives" by, for example, altering the character of the area or threatening public health, safety, or welfare. See Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 581, 883 A.2d 1034 (2005)

2. Granting the variance will be consistent with the spirit of the Rindge Zoning Ordinance. RSA 674:33, I(a)(2)(B).

- a. Explain how granting the variance will be consistent with the overall goals of the Rindge Zoning Ordinance:

Would granting the variance unduly, and in a marked degree, be inconsistent with the ordinance such that it violates the ordinance's basic zoning objectives? This test is essentially the same as Criteria 1.

3. Granting the variance would do substantial justice. RSA 674:33, I(a)(2)(C):.

- a. Explain the benefit to the landowner if the variance were to be granted, and compare this to the interests of the Rindge community which would be served were the variance denied:

This requires a balancing test; a loss to the landowner that is not outweighed by a gain to the general public is an injustice. See Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 109, 920 A.2d 1192, 1199 (2007). The Board should identify the loss the landowner would suffer if the variance is denied and weigh it against the interests of the public. The Board shall also consider whether the proposed development is consistent with the area's present use. See Labrecque v. Town of Salem, 128 N.H. 455, 459, 514 A.2d 829 (1986).



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

- 4. Granting the variance would not diminish surrounding property values. RSA 674:33, I(a)(2)(D).**
- a. Explain why granting the variance would not reduce the property values of the neighborhood:**

Evidence from an appraiser or realtor would be relevant; the Board can also rely on its knowledge of the area. Daniels v. Town of Londonderry, 157 N.H. 519 (2008).

- 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. RSA 674:33, I (a)(2)(E).**

Explain why the conditions of the property make it unique, and why, due to these conditions, not granting the variance would create or leave an unnecessary hardship. Financial hardship may be considered if incurred from not being able to use the property as intended; but hardship must arise from property itself and not result from the property owner's financial plight.

- a. The applicant must demonstrate that “the hardship is a result of the unique setting of the property” that distinguish it from other properties in the area. *Harrington v. Town of Warner*, 152 N.H. 74, 81, 872 A.2d 990, 997 (2005). The applicant can show this by providing evidence that the size, configuration, location, or buffer [make] the property unique, as compared to the surrounding lots. *Garrison v. Town of Henniker*, 154 N.H. 26, 35, 907 A.2d 948, 954 (2006).
- i. It does not, however, require that the property be the only such burdened property. Rather, the burden cannot arise as a result of the zoning ordinance's equal burden on all property in the district. *Harrington*, 152 N.H. at 81.
- ii. In addition, the burden must arise from the property and not from the individual plight of the landowner.

Criteria 5 continued on the following page



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

Criteria 5, continued

- b. The applicant must also show that as a result of this uniqueness, or special character, which distinguishes the property from other similarly situated property:
 - i. There is no fair and substantial relationship between the general public purpose of the ordinance provision and its specific application to the property. Stated another way, the applicant must show that the variance, if granted, would not frustrate the general purposes of the ordinance provision.

- c. The proposed use must be a reasonable one. A “proposed project is presumed to be reasonable if it is a permitted use under the Town's applicable zoning ordinance.” *Vigeant v. Town of Hudson*, 151 N.H. 747, 752, 867 A.2d 459, 464 (2005). This generally applies in those cases where the use itself is not the issue, but rather the variance is sought to relax setbacks or other dimensional requirements. If the use itself is the subject of the variance, then the reasonable use standard set forth in the worksheet would not be relevant.

- d. If Part A, B or C is not met, the applicant must show that 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. RSA 674:33, I (b)(2).

I certify that to the best of my knowledge this all information provided in this Application is true and correct, and that approval will not violate any ordinances, codes, or regulations of the Town of Rindge. I authorize the Members of the Board or their staff to enter onto my property for the purposes of reviewing the Application.

Owner's Signature (or Applicant's if authorized)

Date



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

REPRESENTATIVE: (Fill out this section if the Application is being submitted by a realtor, surveyor, engineer, attorney, etc. on behalf of the applicant.)

Name of Representative: _____

Address: _____

Phone Number: _____



RINDGE ZONING BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD

RINDGE, NH 03461

Tel. (603) 899-5181 X105 Fax (603) 899-2101 TDD 1-800-735-2964

www.rindenh.gov

ABUTTERS/NOTIFICATION LIST

All legal abutters will need to be notified. Use additional copies of this list as needed.

Applicant: _____

Project: _____

Location/Address: _____

Map: _____/Lot: _____

	<u>Map</u>	<u>Lot</u>	<u>Abutter Name & Address</u>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			