



## RINDGE BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD, PO BOX 163

RINDGE, NH 03461

Tel. (603) 899-5181 X100 Fax (603) 899-2101 TDD 1-800-735-2964

[www.rindge.nh.org](http://www.rindge.nh.org)

Do not write in this space: Case No: \_\_\_\_\_ Date Filed: \_\_\_\_\_ Check # \_\_\_\_\_ Date Check Received \_\_\_\_\_  
Amount \_\_\_\_\_ Signed (ZBA) \_\_\_\_\_

### APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

Name of Applicant \_\_\_\_\_  
Address \_\_\_\_\_  
Owner \_\_\_\_\_ if same as applicant, write "same") \_\_\_\_\_  
Telephone Number \_\_\_\_\_ email address \_\_\_\_\_

Location of Property \_\_\_\_\_

(Street #, Map/Lot #, Subdivision)

**NOTE:** This application is not acceptable unless all statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate. An application fee of \$175.00 is required for applications under three lots. Multi-lot developments of three or more lots will be charged an additional \$150.00. Fees are required with the application. In the case of financial hardship contact the Overseer of Welfare at the Town Office.

An Equitable Waiver of Dimensional Requirements is requested from Article \_\_\_\_\_ Section \_\_\_\_\_ of the Zoning Ordinance to permit: \_\_\_\_\_.

1. Does the request involve a dimensional requirement, not a use restriction? YES \_\_\_\_\_ NO \_\_\_\_\_

2. Explain how the violation has existed for ten years or more with no enforcement action, including written notice, being commenced by the town \_\_\_\_\_.

OR

Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot violation had been transferred to a bona fide purchaser \_\_\_\_\_.

And how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake \_\_\_\_\_.

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area \_\_\_\_\_.



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**4. Explain how the cost of correction far outweighs any public benefit to be gained \_\_\_\_\_**

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**An Equitable Waiver of Dimensional Requirements of the Zoning Ordinance for existing construction may be applied for if the situation conforms to the criteria of NH RSA:674:33-a.**

### **Completing the Application:**

- 1. Application forms are available at the Town Office and on the Town Website at [www.rindge.nh.org](http://www.rindge.nh.org). The most current form provided must be used.**
- 2. Clarification of the Zoning Ordinance and assistance in completing the application process can be obtained from the Secretary of the Zoning Board or the Selectmen's Secretary. Legal assistance 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 Planning Office.**
- 6. Applicants having questions regarding the application process may contact the Secretary of the Zoning Board.**
- 7. Applicant should become familiar with all pertinent ordinances prior to submitting an application to the Board.**
- 8. The application must be signed by the property owner. Signature by anyone else or other representation at the meeting must be approved in writing by the property owner.**
- 9. Submit eleven (11) copies of the attached notification list with all names and mailing addresses for everyone who will receive notification of the public hearing:**
  - a. Owner of property.**
  - b. Applicant (if different than owner).**
  - c. Agent(s) if different from owner & applicant and not already included in # f below).**
  - 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 questions) as indicated in the Town Records and not more than five 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.**
  - g. All holders of conservation, preservation, or agricultural preservation restrictions as defined under NH RSA 477:45.**
- 10. The following must also accompany your application at the time it is submitted:**
  - a. Eleven (11) copies of any additional documents that you wish the Board to consider at the public hearing (letter, deeds, etc.)**



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- b. Eleven (11) copies at a size of 8 ½" x 14" (legal size) and in addition three (3) full size (24" x 36"), if applicable, copies of the survey, plot plan or accurate scaled drawing must be submitted 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 Lan 503.02 (a) shall be submitted. The survey need only be made with enough detail to clearly delineate the area for which the dimensional relief is being sought.
- c. Eleven (11) copies 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 street number must be easily seen from the main road.
- d. Application fee of \$175.00 is required for applications under three lots. Multi-lot developments of three or more lots will be charged an additional \$150.00. Fees are required with the application and are nonrefundable. Make checks payable to the Town of Rindge.
- e. Eleven (11) copies of the decision being appealed (building permit denial, etc.)
- f. All physical evidence submitted to the Board will be retained by the Board as part of the record of the petition.

Your completed application along with all 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. Notice of the public hearing shall be published in a newspaper of general circulation.

In signing the application form, the applicant authorizes members of the Board and/or staff to enter into 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 will be given for all decisions of the Board. In the event the Board wishes to wait to make a decision, the Applicant will be so notified. All 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 the ZBA Rules and Regulations. Any



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party affected by the decision of the Board has the right to appeal. Please refer to the Ordinance, RSA's or contact the Zoning Board of Adjustment for further information on requesting a rehearing and what form that request must take.

**PLEASE NOTE: A REQUEST FOR REHEARING MUST BE FILED NO MORE THAN 30 DAYS FROM THE DATE OF BOARD ACTION BEING APPEALED. YOU MUST REQUEST A REHEARING AND THE BOARD MUST ACT TO GRANT OR DENY SUCH REQUEST BEFORE YOU CAN APPEAL TO THE COURTS.**

### **APPLICATION CRITERIA**

The Zoning Board must base its action regarding your application on the following criteria. Address the criteria fully in your application and in your presentation to the Board during the public hearing. If you have any questions regarding the criteria, contact your legal counsel or the Zoning Board. The Board suggests you attend a Zoning Board hearing to become familiar with the process prior to submitting your application if possible. Please refer to the Zoning Ordinance and RSA's for further information on these matters.

### **EQUITABLE WAIVER CRITERIA**

1. When the lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to NH RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver of the requirement, if and only if the board makes all of the following findings:
  - a. That the violation was not noticed or discovered by any owner, former owner, owner's agent 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 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;
  - b. That 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 municipal official in the process of issuing a permit over which that official had authority.
  - c. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and



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- d. That due to the degree 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 that the violation to be corrected.

In lieu of the findings required by the board under subparagraph 1(a) and (b), the owner may demonstrate to the satisfaction of the board that the violation has existed for 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 municipality or any person directly affected. Application and hearing procedures for equitable waivers under this section shall be governed by NH RSA 676.5 through 7. Rehearings and appeals shall be governed by NH RSA 677.2 through 14. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

### STATEMENT OF ASSURANCE

I hereby certify that to the best of my knowledge this information is valid and that there is no violation of the approved ordinances, codes, and/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 this review.

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Owner's Signature (Or Applicant if authorized)

Date



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### 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:

- A** 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 the submission of the list.
- P** The name and mailing address of all professionals whose seal appears on the plans being submitted as part of this application.
- L** The name and mailing address of all parties holding a mortgage or lien on the property.
- R** The name and mailing address of all parties holding a conservation, agricultural preservation, or preservation restriction on the property.

NAME, MAILING ADDRESS, TAX MAP/LOT # IF ABUTTERS OR LIST P, L, OR R FROM ABOVE.



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### 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.

