

TOWN OF HAMPTON FALLS

TOWN OFFICES, 1 DRINKWATER ROAD 603-926-4618



NEW HAMPSHIRE 03844

HAMPTON FALLS ZONING BOARD OF ADJUSTMENT APPLICATION PACKET

***ALL DOCUMENTS MUST BE PROVIDED AT TIME OF SUBMISSION,
INCLUDING THOSE LEFT BLANK***

This packet includes:

- 1. Introduction**
- 2. Application Deadline Dates**
- 3. Checklist for ZBA Applicants**
- 4. Checklist of Items to Include with Application**
- 5. Cover Sheet**
- 6. Abutter Listing Page**
- 7. Application for Variance**
- 8. Application for Special Exception**
- 9. Application for Appeal from an Administrative Decision**
- 10. Application for Equitable Waiver of Dimensional Requirements**
- 11. Application for Relief from Building Code Requirements**
- 12. Sample Plot Plan**

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**APPLICANT IS RESPONSIBLE TO FILE A COMPLETE APPLICATION
BY 11AM ON THE DEADLINE DATE.**

2024 PLANNING BOARD (PB) APPLICATION DEADLINES: effective 2023-12-04

<u>PB MEETING DATE</u> (4 th Tuesday, unless noted)	<u>PB APPLICATION / LEGAL NOTICE DEADLINE*</u>	<u>PB AGENDA DEADLINE**</u>
January 16 (3 rd Tues)	December 22 Friday	January 02 Tuesday
February 27	February 5 Monday	February 16 Friday
March 26	March 4 Monday	March 18 Monday
April 23	April 1 Monday	April 15 Monday
May 28	May 6 Monday	May 20 Monday
June 25	June 3 Monday	June 17 Friday
July 23	July 1 Monday	July 15 Monday
August 27	August 5 Monday	August 19 Monday
September 24	August 30 Friday	September 16 Monday
October 22	September 30 Monday	October 11 Friday
November 19 (3 rd Tues.)	October 28 Monday	November 11 Monday
December 17 (3 rd Tues.)	November 25 Monday	December 9 Monday

2024 ZONING BOARD OF ADJUSTMENT (ZBA) APPLICATION DEADLINES:

<u>ZBA MEETING DATE</u> (4 th Thursday, unless noted)	<u>ZBA APPLICATION / LEGAL NOTICE DEADLINE *</u>	<u>ZBA AGENDA DEADLINE**</u>
January 25	December 29 Friday	January 12 Friday
February 22	January 29 Monday	February 12 Monday
March 28	March 4 Monday	March 18 Monday
April 25	April 1 Monday	April 15 Monday
May 23	April 29 Monday	May 13 Monday
June 27	June 3 Monday	June 17 Monday
July 25	July 1 Monday	July 15 Monday
August 22	July 29 Monday	August 12 Monday
September 26	August 30 Friday	September 16 Monday
October 24	September 30 Monday	October 11 Friday
November 21 (3 rd Thurs.)	October 28 Monday	November 8 Friday
December 19 (3 rd Thurs.)	November 25 Monday	December 9 Monday

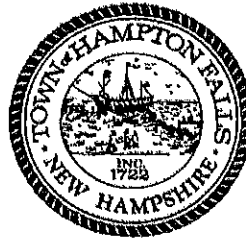
*Closing date for any applicant REQUIRING legal notice in newspaper & certified mailings to abutters.

**Closing date for any applicant NOT requiring legal or abutter notices.

Applications not in progress by 10 p.m. will be continued to the next regularly scheduled meeting.

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ZONING BOARD OF ADJUSTMENT

***Please review and return ALL documents in the packet,
completing the section(s) applicable to your request.**

Applications are submitted to the Building Inspector (926-4618, ext. 5).

Please note the schedule for deadlines.

Dear Applicant:

This will serve to inform you briefly as to what you must do to bring a petition before the Zoning Board of Adjustment. The Board is charged with jurisdiction in four basic types of cases involving the Zoning Ordinances.

1. **Variances** - where special circumstances exist in the property warranting the use of that property in a manner which technically is in violation of the ordinance.

2. **Special Exceptions** - where the ordinance specifically permits a particular use provided the applicant can prove that whatever conditions attached to such use by the ordinance have or will be complied with.

3). **Appeal from Administrative Decisions** - where the applicant feels that the Administrative Official made an error in applying, or interpreting the zoning ordinance in a particular case.

4. **Equitable Waiver of Dimensional Requirements** - where a 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 RSA: 674:16.

This is to inform you, the applicant, that the Board cannot and will not grant the relief sought unless the applicant proves the elements of his or her case.

For example, variances may not be granted solely because the applicant is suffering from financial hardships or other personal problems or simply would like to put his or her property to a non-permitted use. The attached checklist is provided to advise you what information must be included with your application, but may not include all required information for your particular case.

**THE APPLICANT IS RESPONSIBLE FOR
PRESENTING SUFFICIENT INFORMATION
TO SUPPORT A CASE. WHEN FILLING
OUT THE APPLICATION, PLEASE PRINT
OR TYPE.**

Familiarity with the particular provision of the Zoning Ordinance that affects your property is important. Any specific questions you may have relative to your particular case can be answered either by obtaining a copy of the Zoning Ordinance at the Town Hall or online at hamptonfalls.org, or by inquiring at the Building Inspector's Office, 1 Drinkwater Road, Hampton Falls, NH 03844.

You may represent yourself or authorize, in writing, someone else to represent you.

TOWN OF HAMPTON FALLS

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NEW HAMPSHIRE 03844

Checklist for ZBA Applicants

(Building Inspector to complete at time of application submission.)

1. Obtain Application Form Packet from Building Inspector
2. Identify Article and Section of Ordinance in Question
Complete Application Cover Page, Abutter Listing and Proper Application Page(s)
3. Refer to Checklist of Items to Include with Application
(The Zoning Board of Adjustment reserves the right to continue a hearing to address information submitted after the agenda close date.)
4. Submit Complete Application to Building Inspector in conjunction with Application Deadlines:

Map _____, Lot _____, Applicant: _____

Building Inspector reviews Application, and prepares report to ZBA, to include:

- _____ Completed application form and checklist,
- _____ Appropriate number of sketches/plans,
- _____ Listing of abutters to include applicant and professionals,
- _____ Letter of authorization,
- _____ Other _____

Informs:

_____ Bill to Follow for Application Fee, Abutter Fees and Newspaper Notice Fees.

Other information as may be required.

6. Application documentation/plan sets are forwarded to Secretary. Notification is processed by ZBA Secretary for meeting preparation.

ZBA Agenda Close is two Mondays prior to the scheduled meeting; **see enclosed schedule**. Any documentation to be reviewed by the Board is to be submitted to the Secretary before this date.

HAMPTON FALLS
ZONING BOARD OF ADJUSTMENT

Application documentation is due to the Building Inspector no later than Noon the day of the Deadline as posted on the Planning Board/ZBA schedule at the Town Hall.

Checklist of Items to Include with Application
(Please submit completed checklist with application.):

- ☐ Completed Application Form (with letter of authorization, if necessary).
 - ☐ Completed abutters' list, to include the applicant and any professionals noted on the plan. Provide three (3) sets of labels for mailing of notices. *THIS IS THE APPLICANT'S RESPONSIBILITY.*
 - ☐ Completed page governing the type of appeal requested.
 - ☐ A narrative explaining request for waiver.
 - ☐ A sketch (see attached example) of the plot plan or five (5) copies of engineered plan sets are required.
 - Submit one (1) copy to Conservation Commission if request relates to relief from wetlands requirements.
 - Include note on plan identifying sections of local ordinances that relief is sought.
 - ☐ Copy of the tax card(s).
 - ☐ If transmission line easement(s) cross this parcel, notify Public Service of NH (634-2477) and submit plans.
 - ☐ Other supporting information. _____
 - ☐ Inform applicant that a bill for fees will be issued by separate mailing. All fees must be paid before the hearing can be held.
- ☐ Building Inspector prepares report outlining any concerns identified and passes report along with application to Secretary. Secretary prepares report outlining any concerns identified pertaining to application documentation.

HAMPTON FALLS ZONING BOARD OF ADJUSTMENT

APPLICATION FOR APPEAL

Do Not Write in This Space

APPLICATION FEE \$ 75.00

Map # _____ Lot # _____

PLUS ABUTTER NOTICE FEES

Case # _____

AND LEGAL NOTICE FEE

Date Filed: _____

Signed: _____
(Building Inspector or Secretary)

Please complete **ALL** Information:

NAME(S) OF APPLICANT: _____
(If different from owner of record, provide letter of authorization.)

MAILING ADDRESS: _____

OWNER OF PROPERTY CONCERNED: _____

LOCATION OF PROPERTY: _____ CONTACT # _____

DESCRIPTION OF PROPERTY: _____
(Give Total Square Footage, Side and Rear Lines, Location of abutters, and Attach Plot Plan)

EXISTING USE: _____

PROPOSED USE: _____

Pursuant to RSA 676:7, the State law of New Hampshire, the Town of Hampton Falls is required to notify the applicant and every abutter of the public hearing by certified mail, return receipt requested. *The cost of required publication or posting of notice, and the cost of mailing said notices, shall be paid by the applicant RSA 676:7, IV. A bill will be sent separately once amounts are determined.*

THE FOLLOWING INFORMATION MUST BE COMPLETED BY THE APPLICANT

Abutter – Is defined as “Any property owner whose property is located in New Hampshire and adjoins or is directly across the street or stream, from the land under consideration by the 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 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.”

<u>MAP</u>	<u>LOT #</u>	<u>OWNER(S) of RECORD</u>	<u>MAILING ADDRESS/CITY/STATE/ZIP</u>
		Applicant:	
		Property Owner:	
		Engineer:	
		Other Engineer(s):	
		Dept. of Transportation: If Property Fronts State Road	NH DOT, Bureau of Highway Maintenance, District Six, Route 155-A, P. O. Box 740, Durham, NH 03824
		<i>Continue abutter listing on reverse.</i>	

HAMPTON FALLS APPLICATION FOR VARIANCE

(Please Type or Print in Ink)

The undersigned hereby requests a Variance to the terms of Article _____, Section _____, and asks that said terms be waived to permit _____, in Zone _____.

1. Explain how the variance will not be contrary to the public interest.

2. Explain how the spirit of the ordinance is observed.

3. Explain how substantial justice is done.

4. Explain how granting a variance would not diminish the values of surrounding properties.

5. Describe the special conditions that exist such that literal enforcement of the provision of the ordinance results in 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

(i) 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.

By my signature, I give my permission to the Board of Adjustment Members and Building Inspector to have access to my property for viewing purposes regarding this application.

Signature of Applicant: _____

Date: _____

Contact Numbers (home) _____ **(office)** _____ **(cell)** _____

Fee Schedule:	\$ 75	Application Fee
	\$ _____	Abutter Notification Fee (\$4 per notice letter plus postage)
	\$ _____	Subtotal (invoice for actual cost, that includes cost for legal notice, to be mailed separately)

**HAMPTON FALLS APPLICATION FOR
SPECIAL EXCEPTION**

The undersigned hereby request a Special Exception as provided for in Article _____,
Section _____, to allow _____, in Zone ____.

1. Explain how the requested use would be essential or desirable to the public convenience or welfare.

2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

3. Describe how the requested use would not overload any public water, drainage, sewerage system, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

By my signature, I give my permission to the Board of Adjustment Members and Building Inspector to have access to my property for viewing purposes regarding this application.

Signature of Applicant: _____

Date: _____

Contact Numbers: (home) _____ (office) _____ (cell) _____

Fee Schedule: \$ 75 Application Fee
 \$ _____ Abutter Notification Fee (\$4 per notice letter plus postage)
 \$ _____ Subtotal (invoice for actual cost, that includes cost for legal notice, to be mailed separately)

**HAMPTON FALLS APPLICATION FOR
APPEAL FROM AN ADMINISTRATIVE DECISION**

The undersigned alleges that the Building Inspector has made an error in the decision, determination, or requirement on (date) _____, to _____, in relation to Article _____, Section _____, of the Zoning Ordinance and hereby appeals said decision, which I believe was made in error.

Explain why you feel that the Administrative Official made an error in applying or interpreting the zoning ordinance in a particular case.

Use separate sheet, if needed.

By my signature, I give my permission to the Board of Adjustment Members and Building Inspector to have access to my property for viewing purposes regarding this application.

Signature of Applicant: _____

Date: _____

Contact Numbers (home) _____ (office) _____ (cell) _____

Fee Schedule:	\$ 75	Application Fee
	\$ _____	Abutter Notification Fee (\$4 per notice letter plus postage)
	\$ _____	Subtotal (invoice for actual cost, that includes cost for legal notice, to be mailed separately)

**HAMPTON FALLS APPLICATION FOR
EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

The undersigned hereby requests an Equitable Waiver to the terms of Article _____,
Section _____, and asks that said terms be waived to permit: _____,
_____, in Zone _____.

Does the request involve a dimension requirement, not a use restriction?

Yes ☐

No ☐

674:33-a Equitable Waiver of Dimensional Requirement. –

- I. When a 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 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 from the requirement, if and only if the board makes all of the following findings:

Please explain (a through d):

- (a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or 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 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

(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 the violation to be corrected.

- I. In lieu of the findings required by the board under subparagraphs I(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.
- II. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.
- III. 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.

NOTE:

The Board must find in the affirmative on all four questions (a through d) or the request must be denied.

By my signature, I give my permission to the Board of Adjustment Members and Building Inspector to have access to my property for viewing purposes regarding this application.

Signature of Applicant: _____ Date: _____

Contact Numbers (home) _____ (office) _____ (cell) _____

Fee Schedule:	\$ 75	Application Fee
	\$ _____	Abutter Notification Fee (\$4 per notice letter plus postage)
	\$ _____	Subtotal (invoice for actual cost, that includes cost for legal notice, to be mailed separately)

**HAMPTON FALLS APPLICATION FOR
RELIEF FROM BUILDING CODE REQUIREMENTS**

(Please Type or Print in Ink)

The undersigned hereby requests relief to the terms of Article _____, Section _____, and asks that said terms be waived to permit _____, in Zone _____.

- Explain how enforcement of these regulations would do manifest injustice.

- Explain how enforcement of these regulations would be contrary to the spirit and purpose of the building codes.

- Explain how enforcement of these regulations would be contrary to the public interest.

By my signature, I give my permission to the Board of Adjustment Members and Building Inspector to have access to my property for viewing purposes regarding this application.

Signature of Applicant: _____

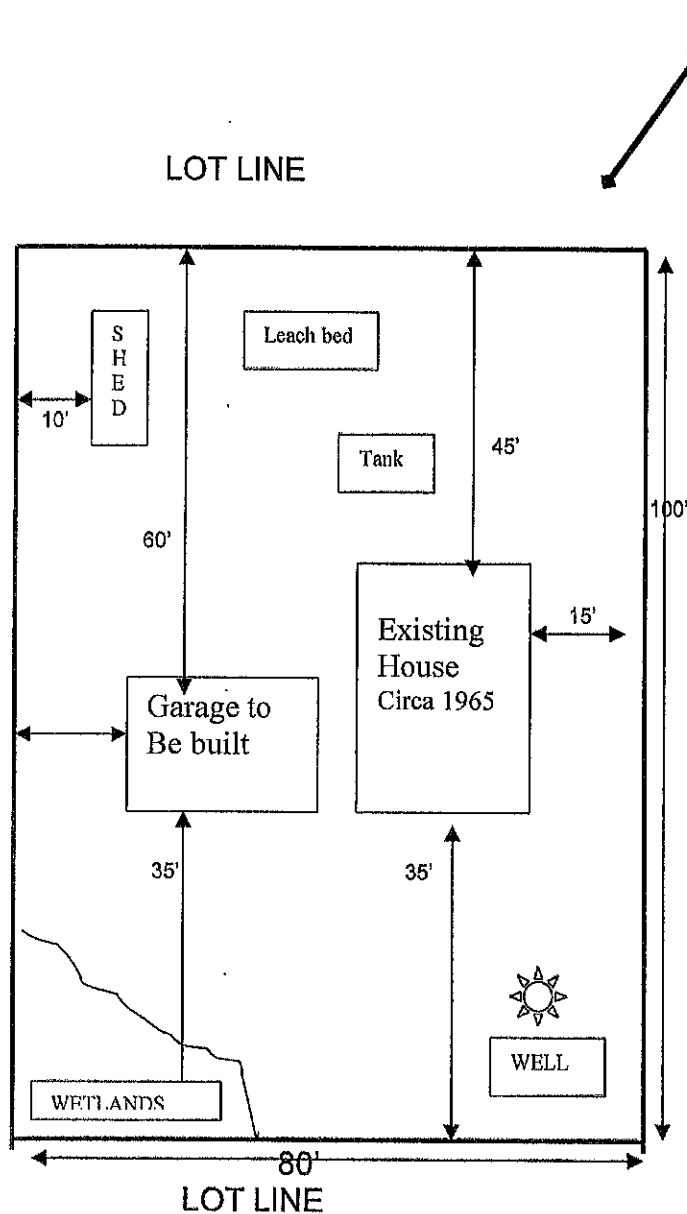
Date: _____

Contact Numbers (home) _____ (office) _____ (cell) _____

Fee Schedule: \$ 75 Application Fee
 \$ _____ Abutter Notification Fee (\$4 per notice letter plus postage)
 \$ _____ Subtotal (invoice for actual cost, that includes cost for legal notice, to be mailed separately)

SAMPLE

ZONING BOARD OF ADJUSTMENT PETITION TYPICAL PLOT PLAN ON 8 1/2 X 11 PAPER



NORTH

Professional plans may be required.
Standard is 1" = 20'

Any reasonable scale may be used.
paper should not exceed 8 1/2 x 11
unless absolutely necessary.

MINIMUM REQUIREMENTS

Lot dimensions.
Location of structures, well & septic.
Names of streets.
Setbacks from lot boundaries & other
buildings.
North arrow.

OPTIONAL SUBMISSIONS

Land surveys, Maps
Site Plans
Other supplemental data.
Wetlands delineation.

Petition for Jon Q. Public
288 Exeter Rd.

Applicant's Signature

Date