



A RESIDENT'S GUIDE TO THE ZBA PROCESS

This guide has been written to provide residents of the Town of Greenland with the necessary information to appeal any zoning decision they feel may have been made improperly. Zoning codes and regulations can be very intimidating as well as confusing. It is our hope that the attached information will be helpful in assisting residents through the appeal process.

Mailing Address

Town of Greenland
PO Box 100
Greenland, NH 03840

Physical Address

Town of Greenland
11 Town Square
Greenland, NH 03840

603.431.3070

Website: www.greenland-nh.com

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ZONING BOARD OF ADJUSTMENT

Town of Greenland • Greenland, NH 03840

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APPEALING TO THE BOARD OF ADJUSTMENT

Before starting the appeal process, the Board of Adjustment strongly recommends the applicant become familiar with the Greenland Zoning Ordinance as well as the NH Statutes Title LXIV, RSA Chapters 672 through 678, covering planning and zoning. The Zoning Ordinance can be found online at www.greenland-nh.com; select Applications/Forms or Building Inspector. NOTE: NH RSA's override Town ordinances.

*Before you can begin the appeal process, you must first have some form of determination that the proposed use is not permitted. Denials may be issued by the Building Inspector, Planning Board or any other elected Board. A copy of the determination must be attached to your application. **Four (4) types of appeals** can be made to the Board of Adjustment.*

I. 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 (5)** of the following conditions.

1. Granting the variance must not be contrary to the **public interest**.
2. The proposed use is not contrary to the **spirit of the ordinance**.
3. Granting the variance would do **substantial justice**.
4. The proposed use would not diminish surrounding **property values**.
5. Denial of the variance would result in **unnecessary hardship** to the owner. Hardship, as the term applies to zoning, results if a restriction, when applied to a particular property, becomes arbitrary, confiscatory, or unduly oppressive because of the conditions of the property that distinguish it from other properties under similar zoning restrictions. RSA 674:33 (b) (5) provides the criteria for establishing 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
 - ii. 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.

II. SPECIAL EXCEPTION

Certain sections of the zoning ordinance provide that a particular use of property in a specific zone will be permitted by **special exception** if specified conditions are met. The necessary conditions for each special exception are given in the ordinance. Your appeal for a special exception will be granted if you can show that the conditions stated in the ordinance are met.

III. 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 Greenland 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 the applicant can show the decision was made in error.

*If you are **appealing an administrative decision**, a copy of the decision appealed from must be attached to your application.*

IV. EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

The Board of Adjustment may grant an **equitable waiver** for existing dimensional non-conformities, provided the applicant can meet the required standards.

The non-conformity was not:

1. Discovered until after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser;
2. An outcome of ignorance of the law or bad faith, but was instead caused by a good faith error in measurement or calculation;

If these conditions are satisfied, the Board can move on to the additional findings to grant a waiver:

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

In lieu of the requirements in numbers (1) and (2), the violation has existed for ten (10) years or more with no enforcement action, including written notice, commenced by the Town.



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GENERAL INSTRUCTIONS

For any appeal, the application form must be properly completed. The application form is intended to be self-explanatory, but be sure that you show:

- **WHO** owns the property? If the applicant is not the owner, this must be explained.
 - **WHERE** is the property located?
 - **DESCRIBE** the property. Give area, frontage, side and rear lines, slopes and natural features, etc.
 - **WHAT** do you propose to do? Include the required materials (see Required Materials and Checklist on page 3).
 - **WHY** does your proposed use require an appeal to the Board of Adjustment?
 - **WHY** should the appeal be granted?
1. Prepare a list of all abutting property owners and attach it to your application. If you have any difficulty, consult the Building Inspector's office, however, the accuracy of the list is the applicant's responsibility.
 2. Mail or deliver the completed application, with all required attachments, to the Secretary of the Boards located in the Building Inspector's office. Applications are available on the website (www.greenland-nh.com; click on Boards/Committees/Commissions and select Zoning Board of Adjustment; click on the green button on the left: Application and Guidelines). Applications will be accepted until **noon on the deadline date**, which can also be found on the website (www.greenland-nh.com; click on Boards/Committees/Commissions and select Zoning Board of Adjustment; click on the green button on the left: Public Hearing Dates/Application Deadlines).
 3. A fee is charged to cover the cost of preparing and mailing the legally-required notices. A fee determination worksheet has been included with each application. Checks should be made payable to the **Town of Greenland** and submitted with your application.
 4. A public hearing will be scheduled within **thirty (30) days** of receipt of your properly completed application.
 5. At least five (5) days before the public hearing: notice of the hearing date will be posted, printed in the newspaper, and mailed to you, all abutters and other parties whom the Board may deem to have an interest. You and all other parties may attend in person, or by agent or counsel, to state reasons why the appeal should be granted.
 6. Following the public hearing, the Board will make a decision, and you will be sent a Notice of Decision.
 7. If you believe the Board's decision is wrong, you have the **right to appeal**. The Board of Selectmen, or any party affected, have similar rights to appeal the decision in your case.

8. To appeal, you must request a rehearing from the Board of Adjustment within **thirty (30) days** of their decision. A **Motion for Rehearing** must be submitted in writing to the Board and include the grounds on which it is claimed the decision is unlawful or unreasonable.
9. The Board may grant a rehearing if, in its opinion, good reason is stated in the Motion for Rehearing. 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.
10. You must have requested a rehearing before you can appeal to the courts, whether or not it has been granted.
11. If a rehearing is held, the same procedure is followed as for the initial hearing, including public notice and notice to abutters.
12. See **RSA 677** for additional information on rehearing and appeal procedures.

REQUIRED MATERIALS AND CHECKLIST

1. Denial Form: The original plus six (6) additional copies.
2. Application: The original plus six (6) additional copies, except where noted.
3. Verification and Signatures page: Include with the original; no additional copies are needed.
4. PDF format: drawings/plans must be included; may be submitted on a thumb drive, CD-Rom, or emailed to **chussey@greenland-nh.com**.
5. Fee Determination Worksheet: Include with the original; no additional copies are needed.
6. Names and Addresses of Applicant and Abutters: Include with the original; no additional copies are needed.
7. Mailing Labels: Three (3) sets - **computer generated or typed**; must be: 1" x 2.63"
8. Three plats (34" x 22")
9. Drawings/Plans (scale: 1" = 40'): Seven (7) copies (all must be 11" x 17")
 - A. If the total cost of the project is:
 1. \$20,000 or less: appropriately scaled, technically dimensional plans
 2. \$20,000 and over: stamped, professionally engineered, appropriately scaled, technically dimensional plans
 - B. Poured foundation and/or wetlands involved, regardless of the dollar amount: stamped, professionally engineered, appropriately scaled, technically dimensional plans; must be certified by a NH Wetlands Specialist.
 - C. All drawings/plans must show boundaries and setbacks.
 - D. Special Exception applications involving wetlands must show the wetlands and buffers; must be certified by a NH Wetlands Specialist.

REQUIRED FEES

Included in this packet is a Fee Determination Worksheet which covers application fees, the required notice fee to all abutting property holders, and the cost of posting the legal notice in a local newspaper. One (1) copy of the completed worksheet must accompany each application.

- Application Fees:
 - Total Cost of Project is \$20,000 or less: \$150
 - Total Cost of Project is \$20,000 and over: \$250
- Legal Notice Fee: \$90
- Certified Mail Fee: \$10 per certified letter (including applicant and agent/representative)

When determining who is an abutter to your property, the following guidelines must be used:

- *The applicant/applicants and owners of the land affected.*
- *Holders of conservation, preservation or agricultural preservation restrictions.*
- *Every engineer, architect, land surveyor, wetlands scientist or soil scientist whose professional seal appears on any plan submitted to the Board.*
- *Any person whose property adjoins or is directly across the street or stream from the applicant's property. For condominiums or other collective form of ownership, the officers of the association shall be the abutters. Refer to **RSA 672:3** for the complete definition.*
- *Compliance with the notification procedures is the applicant's responsibility and not that of the Zoning Board or its staff. Lists will not be reviewed for correctness by the Zoning Board or its staff.*

CRITERIA FOR APPLICATION ACCEPTANCE

- Upon submission of an application, the applicant will be reminded that the date stamp is purely a date of receipt, not an acceptance of the application. The applicant will be informed at the time of submission that the application must be reviewed internally before the application is accepted.
- Any email correspondence from the Board Secretary for internal acceptance of an application must be printed and filed with the application. [This is to ensure any peripheral communication prior to the approval of the application will remain in the file of this specific application.]
- Prior to final acceptance and publication of the legal notice as well as the finalized ZBA meeting agenda, a ZBA designee (Secretary to the Boards, Building Inspector or any ZBA member) must approve the application based on the materials submitted. If there is any ambiguity on the legitimacy or quality of any part of an applicant's submission (e.g. hand sketched drawings), the ZBA designee must meet with one (1) other ZBA designee to validate completeness of the application and its acceptance, and finalization of the legal notice and ZBA meeting final agenda.
- Until the legal notice is published, the application will not be deemed as accepted. The Board Secretary will inform the applicant once the application is accepted.
- All communication must be through the Building Inspector's office.

APPLICATIONS



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VERIFICATION AND SIGNATURES

One copy of this page must be completed and submitted with the packet

Signatures	
(Name) _____ of (Company) _____ is hereby designated as the person authorized to act as my agent in securing any and all permits necessary from the Greenland Board of Adjustment for the development of my property. All communications to the owner may be addressed to the agent or applicant on the owner's behalf.	
Owner Signature	Date
Agent Signature	Date
Applicant Signature	Date
The applicant, owner and/or agent certify that this application is correctly completed with all required attachments and documents. Any additional reasonable costs for engineering or professional services incurred by the Board of Adjustment or the Town of Greenland in the review process of this property shall be borne by the following party: <div style="text-align: center;"> <input type="checkbox"/> Owner <input type="checkbox"/> Agent </div>	
The owner/agent hereby authorizes the Greenland Board of Adjustment and its agents to access the subject land for the purpose of reviewing the application or site plan, performing other inspections deemed necessary by the Board or its agents, and to insure conformance of the on-site improvements with the approved plan and all Town of Greenland ordinances and regulations.	
The owner/agent hereby submits to the Greenland Board of Adjustment a completed application package for its approval. In consideration for approval and the privileges occurring thereto, the owner hereby agrees as applicable: <ul style="list-style-type: none"> • To carry out the work agreed upon and as shown and intended by said plan, including any work made necessary by unforeseen conditions which become apparent during construction. • To save the Town harmless from any obligation it may incur or repairs it may make due to the applicant's failure to carry out any of the foregoing provisions. • To make no changes whatsoever in the final plan as approved by the Board unless a revised plan or new application is submitted and approved by the Board. • There are no known violations of the Town of Greenland Zoning Ordinance or Greenland Board of Adjustment decisions present on the property that have not been disclosed as part of this application. 	



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APPLICATION FOR A VARIANCE

Name of Applicant		
Property Address	MAP and LOT	ZONING
Mailing Address (if different from property address)		
Home Phone	Cell Phone	Email
Owner (if different from applicant)		
<i>This application is not acceptable unless all required statements have been made. Additional information may be included on a separate page, if necessary.</i>		
A variance is requested from Article Section of the Zoning Ordinance to permit:		
Facts in support of granting the variance:		
1) <i>Granting the variance would not be contrary to the public interest because</i>		
2) <i>If the variance were granted, the spirit of the ordinance would be observed because</i>		

3) <i>Granting the variance would be substantial justice because</i>
4) <i>If the variance were granted, the values of the surrounding properties would not be diminished because:</i>
5) Unnecessary Hardship
A. <i>Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:</i>
i. <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 because</i>
ii. <i>The proposed use is a reasonable one because</i>
B. <i>If the criteria in subparagraph 'A' is not established, explain how 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 necessary to enable a reasonable use of it.</i>

APPLICATION REQUIREMENTS

- See "Required Materials", page 3.
- All applications will be forwarded to the Conservation Commission for review.
- Power Point presentations are preferred; equipment is available in the Town Hall Conference Room.

APPLICATION FEES

In accordance with RSA 676:5 IV, the ZBA "may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular appeals or applications". *See attached.*

ARTICLE 17.1.2.1

If the Board of Adjustment grants an application for variance and/or special exception, the application for any and all building permits associated with the execution of such variance and/or special exception must be made within five (5) years for the residential district and two (2) years for the commercial and industrial districts, from the date the Board of Adjustment granted the variance and/or special exception. If such application is not made within these noted time periods, then such variance and/or special exception will be deemed nullified. *(Added March 2008)*

Applicant Signature

Date



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APPLICATION FOR A SPECIAL EXCEPTION

Name of Applicant		
Property Address	MAP and LOT	ZONING
Mailing Address (if different from property address)		
Home Phone	Cell Phone	Email Address
Owner (if different from applicant)		
<i>This application is not acceptable unless all required statements have been made. Additional information may be included on a separate page, if necessary.</i>		
Description of proposed use, showing justification for a Special Exception as specified in the Zoning Ordinance: Article Section		
All Special Exceptions must meet the following criteria. Explain how this proposal meets each criteria:		
1) <i>No hazard to the public or adjacent property due to potential fire, explosion or release of toxic materials.</i>		
2) <i>No detriment to property values or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust or other pollutant, noise, glare, heat, vibration or unsightly outdoor storage of equipment, vehicles or other materials.</i>		
3) <i>No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.</i>		

4) *No excessive demand on municipal services, including but not limited to: water, waste disposal, police and fire protections, and schools.*

5) *No significant increase of storm water runoff onto adjacent property or schools.*

If granted, please be advised that in accordance with Zoning Ordinance 17.1.3.2, Special Exceptions ***may*** be subject to conditions including the following:

- A) Front, side or rear yards in excess of the minimum requirements of this ordinance.
- B) Screening of the premises from the street or adjacent property by walls, fences or other devices.
- C) Modification of the exterior features, building or other structures.
- D) Reasonable limitations on the number of occupants and methods and times of operation.
- E) Grading of the premises for proper drainage.
- F) Regulation of design of access drives, sidewalks or other traffic features.
- G) Regulation of design of the number, size and lighting of signs more stringent than the requirements of the ordinance.

ADDITIONAL SPECIAL EXCEPTION CRITERIA

If this application includes any of the following, please refer to the Zoning Ordinance, and respond to each paragraph. Please use a separate sheet if necessary.

- Aquifer Protection District (Section 7.9, Items 7.9.1 – 7.9.4)
- Golf Courses (Section 17.1.3.3, Items A – G)
- Building in the Wetland Conservation District or Buffer (Section 18.10, Items A - F)
- Doggie Day Center (Section 17.1.3.4, Items A – G)

A)

B)

C)

D)	
E)	
F)	
G)	
APPLICATION REQUIREMENTS	
<ul style="list-style-type: none"> - A professionally drawn map and prepared site plan, photographs or survey MUST be submitted with the application. The plan MUST include (at a minimum) the location of all existing and proposed structures, property line, wetlands, and driveways as well as the names and addresses of all abutters. - See "Required Materials", page 3. - All applications will be forwarded to the Conservation Commission for review. 	
APPLICATION FEES	
<p>In accordance with RSA 676:5 IV, the ZBA "may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular appeals or applications". <i>See attached.</i></p>	
ARTICLE 17.1.2.1	
<p>If the Board of Adjustment grants an application for a variance and/or special exception, the application for any and all building permits associated with the execution of such variance and/or special exception must be made within five (5) years for the residential district and two (2) years for the commercial and industrial districts, from the date the Board of Adjustment granted the variance and/or special exception. If such application is not made within these noted time periods, then such variance and/or special exception will be deemed nullified. <i>(Added March 2008)</i></p>	
Applicant Signature	Date



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APPEAL FROM AN ADMINISTRATIVE DECISION

Name of Applicant		
Property Address	MAP and LOT	ZONING
Mailing Address (if different from property address)		
Home Phone	Cell Phone	Email
Owner (if different from applicant)		
<i>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.</i>		
An Appeal from an Administrative Decision 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 (10) years or more with no enforcement action, including written notice, being commenced by the Town. -OR- Explain how the non-conformity was discovered after the structure was substantially complete, OR after a vacant lot in violation had been transferred to a bona fide purchaser.		

Explain 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 non-conformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area.

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

APPLICATION REQUIREMENTS

- A professionally drawn map and prepared site plan, photographs or survey **MUST** be submitted with the application. The plan **MUST** include (at a minimum) the location of all existing and proposed structures, property lines, wetlands and driveways as well as the names and addresses of all abutters.
- See "Required Materials", page 3.
- All applications will be forwarded to the Conservation Commission for review.

APPLICATION FEES

In accordance with RSA 676:5 IV, the ZBA "may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular appeals or applications". *See attached.*

ARTICLE 17.1.2.1

If the Board of Adjustment grants an application for a variance and/or special exception, the application for any and all building permits associated with the execution of such variance and/or special exception must be made within five (5) years for the residential district and two (2) years for the commercial and industrial districts, from the date the Board of Adjustment granted the variance and/or special exception. If such application is not made within these noted time periods, then such variance and/or special exception will be deemed nullified. *(Added March 2008)*

Applicant Signature

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APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

Name of Applicant		
Property Address	MAP and LOT	ZONING
Mailing Address (if different from property address)		
Home Phone	Cell Phone	Email
Owner (if different from applicant)		
<i>This application is not acceptable unless all required statements have been made. Additional information may be included on a separate page, if necessary.</i>		
An Equitable Waiver of Dimensional Requirements is requested from Article Section of the Zoning Ordinance to permit:		
1) Does this request involve a dimensional requirement, not a use restriction? Yes [] No []		
2) Explain how the violation has existed for ten (10) years or more with no enforcement action, including written notice, being commenced by the Town. -OR- Explain how the non-conformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser AND how the violation was not the outcome of ignorance of the law or bad faith, but resulted from a legitimate mistake.		

3) Explain how the non-conformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area.

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

APPLICATION REQUIREMENTS

- A professionally drawn map and prepared site plan, photographs or survey **MUST** be submitted with the application. The plan **MUST** include (at a minimum) the location of all existing and proposed structures, property line, and wetlands and driveways as well as the names and addresses of all abutters.
- See "Required Materials", page 3.
- All applications will be forwarded to the Conservation Commission for review.

APPLICATION FEES

In accordance with RSA 675:5 IV, the ZBA "may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications". *See attached.*

ARTICLE 17.1.2.1

If the Board of Adjustment grants an application for a variance and/or special exception, the application for any and all building permits associated with the execution of such variance and/or special exception must be made within five (5) years for the residential district and two (2) years for the commercial and industrial districts, from the date the Board of Adjustment granted the variance and/or special exception. If such application is not made within these noted time periods, then such variance and/or special exception will be deemed nullified. *(Added March 2008)*

Applicant Signature

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NAMES AND ADDRESSES OF APPLICANT & ABUTTERS **** ONE (1) COPY OF THIS PAGE ****

Include map and lot numbers of all abutters adjacent to the property. The legal definition for an abutter can be found at NH RSA 672:3, as amended; for purposes of notification, all parties in RSA 676:4(l)(d). Please use additional paper if necessary. You may also copy the mailing labels and attach them.

Applicant		Representative, if applicable	
Map	Parcel #	Map	Parcel #
Name		Name	
Address		Address	
ABUTTERS			
Map	Parcel #	Map	Parcel #
Name		Name	
Address		Address	
Map	Parcel #	Map	Parcel #
Name		Name	
Address		Address	
Map	Parcel #	Map	Parcel #
Name		Name	
Address		Address	
Map	Parcel #	Map	Parcel #
Name		Name	
Address		Address	
Map	Parcel #	Map	Parcel #
Name		Name	
Address		Address	
Map	Parcel #	Map	Parcel #
Name		Name	
Address		Address	



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FEE DETERMINATION WORKSHEET			
** Include one (1) copy of this page with the original application **			
Applicant			
Address			
Type of Application: <input type="checkbox"/> Variance <input type="checkbox"/> Appeal from an Administrative Decision <input type="checkbox"/> Special Exception <input type="checkbox"/> Equitable Waiver of Dimensional Requirements			
QTY	DESCRIPTION	FEE	TOTAL
	Project Cost: \$20,000 or less	\$150	\$
	Project Cost: \$20,000 and over	\$250	\$
	Legal Notice Fee	\$90	\$
	Certified Mailing Fee	\$10	\$
TOTAL FEES			\$

OFFICE USE ONLY			
Amount Paid	Check Number	Date	Received By