

TOWN OF PITTSFIELD, NEW HAMPSHIRE

ZONING BOARD OF ADJUSTMENT

APPLICATION INSTRUCTIONS

SPECIAL EXCEPTION, VARIANCE, OR APPEAL OF ADMINISTRATIVE DECISION

TYPES OF APPEALS

Three types of appeals can be made to the Zoning Board of Adjustment (ZBA):

- **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 your proposed use meets all of the necessary criteria. RSA 674:33 (See page 5)
- **SPECIAL EXCEPTION:** Certain sections of the Zoning Ordinance allow particular uses if the required conditions are met. RSA 674:33 (See page 6)
- **APPEAL OF ADMINISTRATIVE DECISION:** If you have been affected by the decision of any official in the enforcement of the Pittsfield Zoning Ordinance, and you feel the decision was made in error, you may appeal that decision to the ZBA. RSA 676:5

APPLICATION PROCESS

- 1) Application forms are available at the Town Hall. The most current approved form must be used.
- 2) Clarification of the Zoning Ordinance and assistance in completing the application process can be obtained from the Town Office staff. 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. Incomplete or illegible applications will be returned and must be resubmitted.
- 5) Zoning district information may be obtained from maps on file at the Town Hall.
- 6) Applicants having questions regarding the application process may contact the Town Office staff at 435-6773.
- 7) Applicants should become familiar with all pertinent ordinances prior to submitting an application to the Board.
- 8) Applications for variances and special exceptions are accepted only from the owners of property to which the request relates.
- 9) A list of all abutting land owners and any licensed surveyor, engineer, etc, whose seal appears on the plan, as well as their mailing addresses must be attached to the application form. This information is available at the Town Hall and must be obtained no more than five days prior to filing the application. Abutting property will be considered to be that which:
 - a) directly abuts the lot in question, or
 - b) is directly across the street, road, or a stream from the lot in question.
- 10) Application Requirements:
 - a) Variance: Complete application and include all other necessary information including a survey, plot plan, or accurate scaled drawing of the site with all necessary information.
 - b) Special Exception: Complete application and include all necessary information including a survey, plot plan, or accurate scaled drawing of the site with all necessary information.
 - c) Appeal of Administration Decision: Complete application and attach all other necessary information including a copy of the decision you are appealing. A full copy must also be submitted to the official whose decision is being appealed.

APPLICANT'S RESPONSIBILITIES

The following must also accompany your application at the time it is submitted.

- 1) Five copies of all documents that will be considered by the Board at the public hearing must be submitted at the time the application is filed.
- 2) A 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. This section does not require the presentation of a professionally drawn plan.
- 3) Any application for a variance involving wetlands must include one complete copy of all documents submitted to the ZBA for the variance request for the use of the Conservation Commission. The Commission's written or verbal comments on the proposal will be requested.
- 4) Application filing fee is \$40.00, plus \$7.00 for each abutter. The fee is due with the application. All fees are non-refundable. Make checks payable to the Town of Pittsfield.
- 5) 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 other necessary paperwork and fees must be submitted to the Town Hall 20 days prior to the date of the meeting you wish to attend. The Clerk of the Board will set a date, time and place for the public hearing and shall notify the Applicant and all abutting land owners by certified, return receipt, mail and shall cause a public notice of the hearing to be published in a newspaper of general circulation.

DECISIONS OF THE BOARD

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 application must be re-filed.

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.

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, giving his 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 by 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.

For additional information, see ZBA Rules and Regulations.

You or any party affected by the decision of the Board have the right to appeal. To appeal you must first request the Board hold a rehearing. Please refer to the Ordinance, RSA's, or contact the Town Office staff 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 20 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 can apply to the courts.

APPLICATION CRITERIA

Important: Read Carefully Before Filling Out Application!

The Zoning Board must base its action regarding your application on the following criteria. Address the criteria listed under your type of application 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 counselor the Town Office staff. 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.

VARIANCE CRITERIA:

For a variance to be granted you must demonstrate that all seven of the following criteria have been met.

- 1) No diminution of value of surrounding properties would be suffered. The Board will weigh the opinions submitted along with its own understanding of the situation.
- 2) Granting the variance would be of benefit to the public interest. The request must be in harmony with the convenience, health, safety and character of the district.
- 3) The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment.
- 4) No fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restriction on the property.
- 5) The variance would not injure the public or private rights of others.
- 6) Granting the variance would permit substantial justice would be done. Any loss to the individual that is not outweighed by a gain to the general public could be considered an injustice. However, the applicant must meet the other criteria for the granting of the variance.
- 7) The proposed use is not contrary to the spirit of the Zoning Ordinance. The Board shall determine the legal purpose the ordinance serves and the reason it was enacted in order to ascertain if the application meets the spirit of the ordinance.

SPECIAL EXCEPTION CRITERIA:

- 1) **Special Exceptions - General:** Certain uses, structures, or conditions are designated as Special Exceptions in the Zoning Ordinance. Upon an application duly made the Zoning Board of Adjustment may, subject to the appropriate conditions and safeguards, grant a permit for these special exceptions and no others. In all instances a site plan of the proposal shall be presented to the Planning Board for approval and determination as to how the proposal relates to the on-going town planning program and to the maintenance of the integrity of the comprehensive plan.
- 2) **Consideration Governing granting of Special Exceptions:** In acting upon an application for a special exception, the Board of Adjustment shall take into consideration whether:
 - a) The specific site is an appropriate location for the proposed use or structure;
 - b) The proposal will not be detrimental, injurious, obnoxious, or offensive to the neighborhood and will not diminish the value of surrounding properties;
 - c) There will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking;

- d) Adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use or structure; and
 - e) The proposed use or structure is consistent with the spirit of the Ordinance and the intent of the Town's Master Plan.
- 3) **Additional Conditions:** In approving a special exception, the Board of Adjustment may impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of the Ordinance including, but not limited to, the following:
- a) Lot area;
 - b) Front, side, or rear yards;
 - c) Height limitations;
 - d) Screening, buffers or planting strips, fences or walls;
 - e) Modification of the exterior appearance of the structure;
 - f) Limitation upon the size of buildings, number of occupants, method and time of operation or extent of facilities.