

Guidelines for Applicants

Zoning Board of Adjustment

Newbury, New Hampshire

Purpose: The purpose of the Zoning Board of Adjustment is to hear appeals regarding our zoning regulations from any order, requirement, decision or determination made by an administrative official and to administer special provisions in the Zoning Ordinance dealing with special exceptions and variances.

Who may apply: Anyone who has been denied a building permit or disagrees with a decision made by the Board of Selectmen or other administrative official. Consultation is available with the Land Use Coordinator. Only the owner of record has legal standing to apply, but the owner may appoint an agent to prepare and present his/her case. The agent must submit a letter of appointment from the owner with the other materials in the application

How to Choose the Type of Appeal:

Zoning Ordinance

- 16.6 1. **Special Exception** - For certain uses as defined in Articles 4.3, 5.4, 6.5, 8.5, 11.3, or any alteration / construction on your property covered by zoning regulation that specifically require a special exception, you must apply for a special exception.
- **Definition:** A use of land or buildings which may be permitted by the Zoning Board of Adjustment if said Board determines the use to be consistent with the conditions set forth in the Newbury Zoning Ordinance.
- 16.7 2. **Variance** - If you want to do something which is prohibited by the regulations and you think that there are special circumstances of the property that distinguish it from other properties similarly zoned; you may apply for a variance.
- **Area Variance:** permission to relax one or more of the incidental limitations to a permitted use such as setback, frontage, height and lot size.
 - **Use Variance:** Permission to undertake a use of land that the zoning ordinance prohibits.
- 16.5 3. **Administrative Appeal** - If the Board of Selectmen or other administrative official has made a decision related to zoning with which you disagree, you may file an appeal from the administrative decision.
- 16.8 4. **Equitable Waiver** - 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 the zoning ordinance, you may apply for an Equitable Waiver.
- **Definition:** A waiver for an existing nonconformity in the physical layout of a lot or the siting of buildings.

How to apply: Obtain a current copy of the Zoning Ordinance and an application form specific to the type of appeal chosen. The Zoning Ordinance and application forms are available at the Town Office or online at www.newburynh.org.

Fill out and submit the complete application to the Land Use Board Coordinator with the following materials:

1. Copy of **denied building permit and letter** that was sent to you.
2. **Application form** and all documents specified for the application you are applying for (Eight (8) copies). Please use the Zoning Ordinance as a check list so all materials are submitted. The section of the Zoning Ordinance is sited next to the application type listed above.
3. **Abutter List:** One (1) list of abutters with mailing addresses as shown on the current town tax map and every holder of conservation, preservation, or agricultural preservation restrictions on the subject property. **The list of abutters includes the property owner, agent, and any person defined in Article 2.0 of the Zoning Ordinance.**
4. **Fee:** A check for \$100.00 plus prepayment of \$4.42 (notification fee) for each name on abutter list (See form) payable to Town of Newbury. **The property owner needs to be included in the notification fee and should be listed on the abutter list with mailing address.**
5. If you will be **appointing an agent** to represent you, include a **signed** letter of appointment. The letter of appointment should include:
 - name of the agent
 - name of the property owner
 - signature of the property owner
6. A **plot plan** (to scale) of the lot showing:
 - buildings
 - water wells
 - septic systems
 - setbacks from all boundaries

Note: can be the same plan used for the building permit. Draw to Scale and show North Arrow.

Submit **one full size copy** and **eight (8) 11" x 17" copies** for member preparation.
7. A **map** to the property that includes **written directions** from Newbury Town Hall (937 Route 103). (Eight (8) copies)
8. **Photos** or other materials which will help the Board understand the issues underlying the appeal. Not required, but helpful. (Eight (8) copies)
9. **Erosion control plans**, both temporary and permanent, for construction or earth disturbance. (Eight (8) copies)

How to prepare:

1. **Familiarize yourself with the latest edition of the Newbury Zoning Ordinance.** The Zoning Ordinance is available online at www.newburynh.org or may be purchased from the Town Office. If you have received a denied building permit, the Code Enforcement Officer will site the articles from the Zoning Ordinance and reason for denial on the permit. Read Article XVI and the paragraphs relevant to your appeal. Skim through Article II for any definitions that may be helpful. If you have trouble understanding the ordinance, seek help from the Land Use Board Coordinator at (603) 763-4940 ext 201.
2. Try to provide as much educational material as possible to help the board understand your situation. The board is often interested in septic system location and age, and in water flows across the property, as well as environmental protection issues. Photos can be a help.

Assistance:

If you have any questions, need additional information, or would like assistance with the application process, please contact the Land Use Board Coordinator at (603) 763-4940 ext 201.

Timeline:

The Zoning Board meets the second Monday of each month. A complete application must be submitted 2 weeks prior to the hearing for public notice purposes. Incomplete applications will be postponed. It is recommended that you submit your completed application early so that the Zoning Board Chair can make the decision if it is complete or not. If your application is found to be incomplete, this will allow you time to gather the necessary documentation to make it complete.

What to expect at the hearing:

Once a complete application is submitted, you and your abutters will be notified by certified mail of the place, date, and time of your hearing. Before the hearing, members of the zoning board may come to your property to view the existing conditions of the property. It is assumed that they have your permission to walk on your property for this purpose unless the board is otherwise notified. At the hearing, the meeting procedure will be explained to you. The Zoning Board will then hear your presentation and ask questions. Then the public will be asked for their input. The hearing portion will then close and the Board will deliberate. Finally, a vote on your case will be taken and a decision made. In addition, a formal written Notice of Decision will be mailed to you. You have 30 days from the date of the decision to appeal.