



ZBA APPLICATION INSTRUCTIONS

(Updated October 2021)

Please read **ALL** these instructions carefully. Noncompliance with these directions may result in your application being rejected as being incomplete, which could delay the scheduling of your Public Hearing.

NOTICE TO ALL APPLICANTS: If you are making a request for relief based on an application denial from the Department of Building Safety, a copy of that application, including any plans or sketches, and the letter of denial must accompany your ZBA application.

1. Complete, and sign, the attached application for ***one*** of the following: Special Exception, Variance, Appeal of Administrative Decision, or Equitable Waiver. **If you are applying for more than one of the above listed, a separate application form is required for each request.** Submitting more than one request on a single application form may be cause for the rejection of your application.
2. The ***applicant*** is responsible for submitting a correct list ***all abutters***, with complete mailing addresses for notification. Be sure to include the full mailing address of the owner, not the occupant, of each abutting property. If the applicant is not the property owner, the property owner must also be notified. Be aware that the post office returns all mail if the address is not correct. Three (3) sets of mailing labels with the abutters' name(s), address and zip code, are required with your application. Please refer to pages 6-8 of this form for additional instructions on how to submit abutter information and what is required.
3. An ***application fee*** of \$125.00/application and ***certified/return receipt mailing fees*** must be paid at the time of application submission. Please ask the ZBA Administrative Assistant to assist you in calculating the applicable fees. Payment may be made by a check or cash. If paying by check, one check is acceptable for both the application and mailing fees. If paying by cash, payment must be exact change only.
4. **If the applicant is not the property owner, written authorization from the property owner, allowing the application, must be provided with the application.** If the applicant is being represented by another party, an agent authorization letter must be part of the application packet.
5. All applications must be submitted electronically as well as hard copy. If you need assistance with your electronic submission, please contact the ZBA Administrative Assistant.
6. When submitting plans for a commercial application, **please provide two (2) full sized copies of the plan(s) and ten (10) half-sized (11 X 17) copies of the plan.** When appropriate, or required, plans must bear the seal of a professional engineer, licensed in New Hampshire as specified in Article XX of the Zoning Ordinance. Plans must be submitted with the application.
7. Additional Information Requirements based on Specific Applications:
SIGNS: A rendition of the proposed sign, with dimensions, is required. For attached signs a drawing of the building façade, with dimensions (including dimensions of the glass), and depicting the proposed location of the sign, must also accompany the application. (*See Article IX*).
ACCESSORY DWELLING UNITS (ADUs): Complete floor plans for the ADU, indicating the square footage of the living space, as well as a rendition of what the outside would be proposed to look like. A copy of the deed must also be submitted. (*See Article VIII*).
HOME OCCUPATIONS: A drawing, with each room's use (i.e. kitchen, office, etc.) and specific dimensions labeled, of the entire home is required. The proposed areas to be used by the Home Occupation should be designated on the drawing. If the property is part of a Condominium Owners' Association, written permission of the COA is required. A copy of the deed must also be submitted with the application (*See Article X*).
8. ZBA hearings are generally held on the ***last Thursday*** of the month at ***6:30 PM*** at the Town Hall. There are exceptions when a meeting date falls in a holiday week. Applications, Plans and Fees must be submitted, by the deadline dates shown on the approved deadline/meeting schedule. You can find a list of deadlines and meeting dates approved by the Board on the Zoning Board of Adjustment page of the Town's website www.plaistow.com. Please note that applications must be received **by 3:30pm** on the filing deadline date. **NO EXCEPTIONS.**

WHAT TO EXPECT ONCE YOUR APPLICATION IS FILED...

- Once an application deadline closes a Legal Notice of all applications received by that deadline is prepared. All applicants, abutters and other interested parties to an application will receive a copy of the Legal Notice by certified, return receipt mail. The Legal Notice will also be published in the Eagle Tribune, posted on the Town's Website, and at Town Hall.
- You, and/or you authorized representative, must be present at the Public Hearing. If we do not have an agent letter and the applicant is not present, the public hearing will not move forward.
- Be prepared to make a presentation in support of your request. Pictures, plans, documents, etc. are helpful and may be submitted with your application. You may also bring additional evidence to support your application request to the Public Hearing. All submitted evidence should be marked on the back with the property address for identification. Any evidence you present to the Board in support of your case becomes part of the record and will not be returned. Please make any copies to keep for your records prior to the meeting. It is acceptable to submit copies of original documents such as deeds and easements.
- The Board will hear the testimony for your case, examine your evidence, ask questions and hear from any interested parties who are present or who have submitted written comment.
- Once all evidence has been presented and all comments and questions addressed, the Public Hearing will be closed. **Once the Public Hearing is closed there is no additional comment from the public.**
- Before deliberations can begin, a motion must be made regarding the application. For clarity, the Board routinely states their motions as "to grant" the application. This does not bind the Board to granting the application, nor does it imply the member making the motion, or the second, is in favor of the application. It is merely procedural to move the deliberation process along.
- Using the requirements set forth in the NHRSAs, the Board will deliberate your case. The majority of the time a decision is made that night, however the Board does have the right to continue the Public Hearing if they need more time, or consultation with legal counsel to make a proper and correct decision. This is a rare occurrence and usually is related only to larger, complex, commercial applications.
- Once the Board has completed deliberations a vote on the motion to grant will be taken.
- The same procedure will be repeated for each application before the Board.
- Written notice of the decision will be sent to the applicant within five (5) business days. The notice of decision and draft meeting minutes will be available to the public, upon request, within the same five (5) business days.
- Under the RSAs any party who disagrees with the Board's decision has the right to request a re-hearing. Written requests for re-hearing must be received within thirty (30) days of the decision. No permits will be issued within this thirty (30) day period.
- Re-hearing requests may only be granted if it can be shown that there was a procedural error, or that new evidence has been discovered that could have resulted in a different decision by the Board. Any request for re-hearing should clearly state the procedural error and/or what the newly discovered evidence is.
- If a re-hearing is granted, all notification costs shall be the responsibility of the re-hearing requestor.

Important Information about the ZBA Voting Structure

Any board, committee, or commission, including the Zoning Board of Adjustment, by RSA must have a quorum of its membership present in order to conduct business. The Plaistow ZBA has a total of five (5) regular members and may have up to five (5) additional alternate members. Therefore, a quorum is established when three (3) members and/or alternate members are present. The ZBA, by statute, must have three (3) votes to affirm any motion to grant. The three (3) votes are a majority of the Board's total membership of five (5), not merely a majority of the members *present* at any meeting. This means that if there are only three (3) members present, which establishes a quorum, all three (3) must vote in favor of granting the application. A vote of 2-1-0 or 2-0-1 (yes-no-abstain), while a majority vote, would not pass the motion to grant.

Since the odds for approval may significantly decrease when there is less than a full five-member board hearing your application, you have the right to request that your case be continued to the next meeting to have it heard by a full board. You may also choose to move forward with your application with a less than five-member board, doing so at your own informed peril. If any applicant chooses to move their application forward with less than a five-member board, the lack of a full board is not a procedural error and cannot be used as a reason to request a re-hearing.



Plaistow Zoning Board of Adjustment
145 Main Street – Plaistow, NH 03865
Telephone – 603-382-5200 X202

For Office Use Only

Case # _____
Date Submitted: _____
Hearing Date: _____
of Notices: _____

APPLICATION FOR APPEAL

Note: all matters that come before the ZBA are referred to as “appeals.” This form is required to be filled out for all applications including: Appeal of Administrative Decision; Special Exception; Variance and Equitable Waiver. Please complete the specific section based on the application being made.

GENERAL INFORMATION (ALL APPLICATIONS):

Name of Applicant: _____

Mailing Address: _____
(Street & Apt. #) (Town) (State) (Zip)

Telephone: _____ Email Address: _____

Location of Property: _____

Owner of Property: _____
(If applicant is not the property owner, written authorization to allow the application must accompany the application.)

Zoning District: _____ Map # _____ Lot # _____

Applicant Signature: _____

FILL OUT THIS SECTION FOR AN APPEAL FROM AN ADMINISTRATIVE DECISION: *relating to the interpretation and enforcement of the provisions of a zoning ordinance.*

Decision of the enforcement officer to be reviewed: _____

FILL OUT THIS SECTION FOR A SPECIAL EXCEPTION REQUEST

Article: _____ Section: _____ (The Article and Section Numbers **must** be completed. If you are unsure of these numbers, please seek the guidance of the Department of Building Safety)

To permit: _____

FILL OUT THIS SECTION FOR A VARIANCE REQUEST:

Article: _____ Section: _____ *(The Article and Section Numbers **must** be completed. If you are unsure of these numbers, please seek the guidance of the Department of Building Safety)*

State the reason for this variance request. Be specific in what you are asking the Board to allow:

Criteria (All sections must be completed):

1. The proposed variance will not be Contrary to the Public Interest because: _____

2. The Spirit and Intent of the Ordinance is preserved because: _____

3. There is Substantial Justice in Granting the variance because: *(NOTE: Any loss to the individual that is not outweighed by a gain to the general public is an injustice)*

4. The Values of the Surrounding Properties will not be Diminished because:

5. Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship:

- a. No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property because: _____

(Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance or can relief be granted to this property without frustrating the purpose of the ordinance?)

- b. The proposed use is a reasonable one because: _____

(The applicant must establish that, because of the special conditions of the property, the proposed use is reasonable.)

FILL OUT THIS SECTION FOR AN EQUITABLE WAIVER REQUEST:

An Equitable Waiver is requested from to correct a Violation of

Article: _____ Section: _____ (The Article and Section Numbers **must** be completed. If you are unsure of these numbers please seek the guidance of the Department of Building Safety)

State Specific Violation: _____

Criteria (All sections must be completed):

(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;

How was the violation discovered and when? _____

(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;

What was the cause of the violation? _____

(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;

What is the impact of the violation on the general public and the property's abutters? Surrounding property values? The future use of the property? _____

(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.

What would be the cost to the property owner to correct the violation? (please provide specific evidence) _____

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.

FEEL FREE TO USE ADDITIONAL PAPER AS NEEDED TO PROVIDE ANY INFORMATION THAT WILL ASSIST THE BOARD IN CONSIDERATION OR YOUR REQUEST.

ABUTTER'S LIST

**Three sets of mailing labels are required with all applications
(1" X 2.63" - Avery 8160 or 5160 or equivalent)**

PLEASE BE CERTAIN TO INCLUDE THE APPLICANT IN YOUR MAILING LABELS.

If the applicant is not the property owner, the property owner must also be listed as an abutter.

Do not note map and lot numbers on labels

APPLICANT'S NAME: _____

MAILING ADDRESS: _____

Please type or print legibly the complete names and mailing addresses of all abutters, with full name, mailing address (including street number where applicable), and zip code. Incomplete addresses may cause your application to be rejected for correction and possibly delay your hearing. When calculating your abutter notification costs please be certain to **include the applicant**. Multiple applications submitted for the SAME property, at the SAME time, only need to submit labels with one application and will only be charged for once for abutter notifications to cover all applications when submitted together.

HOW TO COMPILE AN ABUTTERS LIST

As noted on the previous page, your application must include three (3) sets of mailing labels. That's the name and address for the applicant, property owner (if different than the applicant), abutter, and engineers/consultants (if applicable) on three labels each. Please refer to the previous page of the required label size. Incorrectly prepared labels will not be accepted.

GENERAL INFORMATION

Who is your abutter? An abutting property is defined as any property that touches your property line, including across the street. The abutter is that property's owner.

The information for the property owner's name(s) and mailing addresses should be submitted as shown on the Assessor's Property Records. Do not assume that the person occupying an abutting property is the legal owner or that the parcel address is their legal mailing address. Please include the names of ALL owners listed on the Property Record Card, not just the first name shown.

Abutter information is available either on the Town's website www.plaistow.com or using the stand-alone computer on the second floor of Town Hall. Both processes are described below.

What do you need to find your abutters? To use the online system, you only need your property address. To use the stand-alone computer, it is easier if you have the PARCEL ID, which is your map and lot, formatted as these examples:

Map 24, Lot 38 would be Parcel ID 24-038
Map 38, Lot 122 would be Parcel ID 38-122
Map 26, Lot 1 would be Parcel ID 26-001
Map 14, Lot 17-1 would be Parcel ID 14-017-001

TO FIND YOUR ABUTTERS ONLINE www.plaistow.com

Go to the Assessor's Department page on the town website and you will find a link to the "PROPERTY RECORD CARD - Information/Online Viewer" in the blue ribbon on the left side of the page. This will open to a map of the Town.

1. Enter the application address in the search at the top left of the page. A list will appear with all possibilities for that address. For example, 118 Main St, will also show in a search for 18 Main St. Click on the correct parcel address and it will highlight that parcel on the town map.
2. Click on the "Abutters" box next to the search area and a new dialogue box of options will open.
3. Select the option to "Select parcels within 100 feet." This will highlight all the abutters to the selected parcel on the map.
4. Once the map is highlighted go back and select the "Abutters Report" (choose the pdf option). This will produce a list of all your abutters. Print this list to include in your application packet.
5. You can either use the information shown on the list to make the required three (3) sets of mailing labels using a label program on your computer, or you can use the label option in the online viewer. Just a word of caution with the online label option, you may have to edit some of the formatting of the addresses prior to printing.

TO FIND YOUR ABUTTERS USING THE STAND-ALONE COMPUTER (in person @ Town Hall)

1. Find your property on the Plaistow Tax Maps.
2. Look at that map to see which properties fit the above description of an abutter.
3. Using the map-lot (formatted as the Parcel ID) of each of those properties, query (search) each property to find the legal owners' name(s) and their legal mailing address. There are instructions on how to query using this stand-alone computer posted at the computer station.

Hint: The easiest way it to query is by "Parcel ID" (see above for how to format the Parcel ID)

4. Fill in this information in the blocks on the abutters list form, provided in your application kit, one abutter per block. You can either just write the information in while you are at the computer or you can print each property record (instructions are posted at the computer) and take them with you to fill out this form later.

ADDITIONAL NOTES

No matter which method you use, if you are having trouble with obtaining abutter information please contact the ZBA Administrative Assistant.

If an abutting property is owned by a Condominium Owners' Associations (COA) or a Home Owners' Association (HOA) property you need only to notify the Board of Directors, or designated contact (usually a property management company) of the COA or HOA. The label should note that name of the COA or HOA and c/o the appropriate person.

If one of the abutting properties is owned by the Town of Plaistow, you still have to list the Town as an abutter and include them in your labels. The label should read:

Town of Plaistow
Attn: Board of Selectmen
145 Main St
Plaistow, NH 03865

THE CURRENT APPLICATION DEADLINE AND CORRESPONDING MEETING SCHEDULE IS AVAILABLE ONLINE

www.plaistow.com

(Under the Boards and Committees tab, scroll to Zoning Board of Adjustment)