

VARIANCE CHECKLIST

Case number: _____

Mr and/or Ms _____

petitioned for Variance of Zoning Ordinance Art. _____ Para(s) _____

for property shown on Tax Map _____ Lot(s) _____ and located

on _____ road in the Town of Epsom.

- I. In accordance with New Hampshire RSA 674:33(I)(b), the Zoning Board of Adjustment (ZBA) has the power to authorize a VARIANCE from the terms of the Epsom Zoning Ordinances. The purpose of a variance is to avoid constitutional questions, and provide a speedy and adequate remedy in cases where special conditions exist and the strict letter of the zoning ordinance can be waived without sacrifice of its spirit or purpose.
- II. The ZBA is authorized to attach reasonable conditions to variances granted so that the spirit of the ordinance shall be observed and substantial justice done.
- III. In 2009, the New Hampshire Legislature passed a bill (Senate Bill 147) which rewrote the 2004 Supreme Court decision in Boccia vs. Portsmouth. Variances are no longer divided into two distinct types, Use and Area, with respect to the hardship attribute. Instead a single set of criteria is applied to all variances.
- IV. The ZBA shall record its findings for granting or denying a variance. In order to grant a variance, criteria A. thru E. and either F.(1) or F.(2) must be answered in the affirmative:

Yes or No

	Yes		No	A. The variance will not be contrary to the public interest.
	Yes		No	B. The variance is consistent with the spirit of the ordinance.
	Yes		No	C. By granting the variance, substantial justice is done.
	Yes		No	D. The proposed use will not diminish the value of surrounding properties.
	Yes		No	E. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. For purposes of this criteria, "unnecessary hardship" means that, either:
	Yes		No	Either: F.(1) Owing to special conditions of the property that distinguish it from other properties in the area: <ul style="list-style-type: none"> 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 The proposed use is a reasonable one.
	Yes		No	Or: F.(2) Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonable used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable us of it.

(Use other side for Comments)

Signed By: _____

Date: _____