

Accepted by ZBA _____
Date: _____
Case #: _____

Amt Pd / Chk # _____ / _____
Date: _____
Rec'd By: _____

EPSOM ZONING BOARD OF ADJUSTMENT
TOWN OF EPSOM, NEW HAMPSHIRE 03234

APPLICATION FOR APPEAL TO THE EPSOM ZONING BOARD OF ADJUSTMENT

This property is recorded at the Merrimack County Registry of Deeds in Book(s) # _____ Page(s) # _____

PLEASE PRINT OR TYPE ALL INFORMATION CLEARLY Map #: _____ Lot #: _____ Sub-lot #: _____

1. Name of present property owner: _____
(and principal officer if business): _____

2. Name of applicant (if different; both applicant and property owner must be present at public hearing or a signed statement from the owner must be provided authorizing the applicant's appeal):

3. Telephone #: _____ Email _____

4. On separate sheet list **all** abutters to this property. An abutter is any person whose property is located in N.H. and is within 200 feet of your properties boundary line.

5. This application is for a (check all that apply):

ADMIN. APPEAL (Complete Sect. 1) **SPECIAL EXCEPTION** (Complete Sect. 2)

VARIANCE (Complete Sect. 3) **EQUITABLE WAIVER** (Complete Sect. 4)

SPECIAL USE PERMIT (JUNK YARD) (Complete Sect. 5)

SECTION 1 – APPEAL FROM AN ADMINISTRATIVE DECISION

(Relating to the interpretation and enforcement of the provisions of the zoning ordinance.)

Decision of the enforcement officer related to zoning ordinance article(s) _____ section(s) _____ and Applicant's interpretation of this ordinance (incl. applicable correspondence, use additional sheets as necessary):

SECTION 2 – SPECIAL EXCEPTION APPEAL

A Special Exception is requested per article(s) _____ section(s) _____ of the zoning ordinance to permit the proposed use detailed in paragraphs 6 and 7 of this application. Complete Section 2 questions related to the Zoning Board's Special Exception checklist on page 5.

SECTION 3 – VARIANCE APPEAL

A Variance is requested to deviate from article(s) _____ section(s) _____ of the zoning ordinance to permit the proposed use detailed in paragraphs 6 and 7 of this application. Complete Section 3 questions related to the Zoning Board's Variance checklist on page 6.

SECTION 4 – EQUITABLE WAIVER APPEAL

An Equitable Waiver of Dimensional Requirements is requested to deviate from article(s) _____ section(s) _____ of the zoning ordinance to permit the proposed use detailed in paragraphs 6 and 7 of this application.

Complete Section 4 questions related to the requirements of an Equitable Waiver on page

SECTION 5 – SPECIAL USE PERMIT APPEAL

A Special Use Permit, as specified in article III, section D.5 of the zoning ordinance is requested to permit the proposed junk yard detailed in paragraphs 6 and 7 of this application.

Complete Section 5 questions related to the requirements for a junk yard on page 8.

- 6. Statements explaining exactly what you plan to build and/or do. Use additional sheets for sketches (include project location on lot with dimensions including all lot dimensions where applicable)

- 7. Proposed use, or existing use affected:

Information on page 3 is provided to assist you with understanding the zoning process and completing this application. Sign and date below following completion of the application.

This application is not acceptable unless it is complete, accurate and all information necessary to fully understand and advertise your request has been submitted. Use additional sheets as necessary

The undersigned alleges that the information provided on this application is true and accurate to the best of their knowledge.

APPLICANT: _____ DATE: _____

TOWN OF EPSOM, NEW HAMPSHIRE
Board of Adjustment

Zoning Board of Adjustment Application Process

1. The Zoning Board of Adjustment (Board) was established through the adoption of the zoning ordinances in 1969 and given the powers to hear and decide appeals as authorized by the zoning ordinances.
2. The Board, in a sense, is like a court comprised of town residents appointed by the Board of Selectmen. Public Hearings are scheduled to hear your case where testimony may be taken under oath, although in general, Board proceedings are informal. You are not required to be represented by an attorney, but in some cases, legal counsel may be helpful. Appeals of decisions made by the Board are taken to Superior Court.
3. The first step in completing the application is to determine the specifics of your case and how it interfaces with the zoning ordinance requirements. If you are not familiar with zoning, the Zoning Compliance Officer can assist with determining what type of zoning appeal is needed and which zoning ordinance(s) need to be identified on your application.
4. A brief explanation of the procedure to be followed for each type of appeal is as follows:

Section 1. An **appeal of an administrative decision** is commonly due to the interpretation of the zoning ordinances by the administrative officer or land use board, such as the Zoning Compliance Officer (ZCO), Planning Board and/or the Board of Selectmen. If you disagree with an administrative decision, you can apply for an administrative appeal to make your case before the Board. You should include all relevant materials with your application such as any correspondence with the Town denying your request. You should also explain your interpretation of the zoning ordinances and how it supports your position.

Section 2. A **special exception** is an approved use of land or building(s) that is permitted, subject to specific conditions set forth in zoning ordinances. These conditions are incorporated into Section 2 questions to be answered and submitted with this application.

Section 3. A **variance** is a waiver or relaxation of particular requirements of an ordinance when strict enforcement would cause undue hardship because of the circumstances unique to the property and other standards required by a variance. The criteria necessary for a variance approval are incorporated into Section 3 questions to be answered and submitted with this application.

Section 4. An **equitable waiver of dimensional requirement** is 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 a zoning ordinance. The burden of proof is on the property owner to ensure all the applicable findings are satisfied. These findings are incorporated into Section 4 questions to be answered and submitted with this application.

Section 5. A **special use permit** is the only permit issued by the Board and is just part of the full procedure necessary for establishing a junk yard. There are specific considerations the Board will make prior to approving a special permit. These considerations are incorporated into Section 5 questions to be answered and submitted with this application.

Note: It will also be necessary to obtain Non-residential site plan review approval by the Planning Board and licensing by the Board of Selectmen prior to establishing a junk yard.

5. Multiple appeals can be combined on one application for the same project.
6. In order to establish a Public Hearing at which your case will be heard, all abutter's names and addresses within 200 feet of the property lines shall be provided. It is your responsibility, as applicant, to ensure the accuracy of the abutter listing.
7. Finally it will be necessary to pay fees for advertising and recording the proceedings of the Public Hearing. See Fee Schedule on page 4. You will be notified of a hearing date by certified mail.

**EPSOM BOARD OF ADJUSTMENT
FEE SCHEDULE**

EFFECTIVE April 21, 2014

The fee schedule for the zoning board of adjustment shall be as follows:

ZONING APPLICATION FEE	\$ 295.00
DECISION RECORDING FEE	\$ 25.00 (The Town records the Decision and the applicant will be notified when this fee is due)
ABUTTER'S NOTICE FEE	\$ 13.00 per abutter
CONTINUANCE FEE	\$ 55.00 per meeting (This fee will be requested prior to the Public Hearing during which the continuance is heard)

“Abutters” include the property owner, applicant (if different), and any abutting property owner within 200’ of property on application. If represented by an attorney, it is recommended that you also include an abutter fee and address for that attorney.

Approved by the Epsom Board of Selectmen on December 17, 2012
Board of Selectmen Revised Abutter’s Notice Fee on April 21, 2014

Board of Selectmen

**Donald Harty
Robert Blodgett
Elizabeth Bosiak**

ZBA/Fee Schedule 2011 - Board of Selectmen Updated 04/21/2014

Section 2 Special Exception Questions:

1. A complete plan for the proposed project has been submitted showing location of all buildings, parking areas, access, open space, landscaping and any other pertinent information. Detail should be commensurate with size and complexity.

Yes _____ , No _____ If No, explain why _____

2. How is the requested use essential or desirable to the public convenience or general welfare?

3. Why will the requested use not impair the integrity or character of the immediate or adjoining areas?

4. How do you ensure that this specific site is an appropriate location for the proposed use and will not be detrimental to the health, morals or general welfare of the immediate or adjoining areas?

5. Why will the property values in the area not be adversely affected by the requested use?

6. How will you ensure that no undue traffic, nuisance or unreasonable hazard will result because of the requested use?

7. How do you ensure that adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use?

8. What evidence do you have, and can provide as evidence, that the proposed use has an adequate water supply and sewerage system and meets all applicable requirements of the State?

Note: The Board will address all of these questions and must be satisfied with both written and verbal responses heard at the Public Hearing prior to approving all Special Exceptions.

Section 3 Variance Questions:

1. Granting the variance would not be contrary to the public interest because: _____

2. If the variance were granted, the spirit of the ordinance would be observed because: _____

3. Granting the variance would do substantial justice because: _____

4. If the variance were granted, the values of the surrounding properties would not be diminished because: _____

5. Unnecessary Hardship

- a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
 - 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:

-and-

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

- b. Explain how, if the criteria in subparagraph 5(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:

Note: The Board will address all of these questions and must be satisfied with both written and verbal responses heard at the Public Hearing prior to approving all variances.

Section 4 Equitable Waiver Questions:

1. Does the request involve a dimensional requirement, not a use restrictions? yes no

Note: Question 1 must be checked "yes" and the Board must be satisfied with both written and verbal responses heard at the Public Hearing prior to approving all equitable waivers from dimensional requirement appeals.

2. Explain how the violation has existed for 10 years or more with no enforcement action, including no written notice, being commenced by the town: _____

- or -

Explain how the nonconformity 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 an outcome of ignorance of the law or bad faith but resulted from a good faith error in measurement or calculation: _____

3. Explain how the nonconformity 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: _____

Section 5 Special Use Permit (Junk yard) Questions:

1. Is the location of the proposed junk yard no closer than:

a. 1000 feet from an interstate highway?

Yes No

b. 660 feet from a Class I, II, or III highway R.O.W?

Yes No

c. 300 feet from a Class IV, V or VI road R.O. W?

Yes No

2. Is the location within close proximity of the Residential Commercial Zone?

Yes No

Explain (e.g. How close is it?) _____

3. Is the location in close proximity of schools, churches, hospitals, public buildings, or other places of public gathering?

Yes No

Explain (e.g. How close is it?) _____

4. Is the location in close proximity to tourist or recreational areas or the main access to these areas?

Yes No

Explain (e.g. How close is it?) _____

5. How will the proposed junk yard in this location be reasonably prevented from affecting public health, safety or morals of the surrounding properties created by offensive or unhealthy odors, smoke, discharges or other causes?

6. How will the proposed junk yard site be reasonably shielded from view by natural vegetation, terrain, or barrier from the highway and all abutting properties to the fullest extent practical?

Note: The Board will address all of these questions and must be satisfied with both written and verbal responses heard at the Public Hearing prior to approving all special use permits for junk yards.