

Equitable Waiver of Dimensional Regulations Application Checklist

- Complete the application form.
- **You must complete the "Consideration Governing the Granting of a Dimensional Equitable Waiver" sheet, addressing the 5 items set forth by NH RSA 674:33a.**
- A narrative explaining what you are requesting the equitable waiver for.
- A sketch (see attached example) including the following:
 - Measurements of the distances from any existing structure to the lot lines. If the proposed structure is not attached to the building, you will need the distance between buildings.
 - Dimensions of the lot.
 - If the applicant is not the property owner, he/she must supply a note signed by the property owner stating his/her knowledge of the application being submitted to the Zoning Board of Adjustment. The property owner will receive a copy of the public hearing notice by certified mail along with the abutters.
- Photographs, if you have them.
- **The Zoning Secretary will create the abutters list for the applicant. The applicant must pay the cost of the certified fee for each abutter, applicant and any other applicable person on the abutter list.**
** See Zoning Secretary for current fee.
- Application fee \$175.00 (make check payable to the City of Rochester).

All of the above information must be completed and submitted to the Planning & Development Department on or before the deadline date, or the application will be considered incomplete and will be postponed until the next scheduled meeting, or until all the requirements have been met.

NOTE: All applicants will be allowed one (1) postponement of the hearing on their application, and shall notify the Planning & Development Department in writing of their intent to postpone such hearing at least two (2) days prior to the meeting at which their application is to be considered. If the applicant requests a second (2nd) postponement of the hearing, the application will be considered to have been withdrawn and the applicant must file a new application with the Board in order to receive a hearing. The provisions of this paragraph shall not apply to any postponement requested by an applicant as a result of the inability of the Zoning Board of Adjustment to provide the applicant with a full five-member board for the hearing on the application.

The applicant or their representative **MUST** attend the Zoning Board of Adjustment meeting to present their case, or no action will be taken.

If you have any questions with any of these requirements, please call Crystal Galloway at 603-335-1338 or Email crystal.galloway@rochesternh.net



Planning & Development
33 Wakefield St
Rochester, NH 03867
Phone (603) 335-1338 Fax (603) 330-0023

APPLICATION FOR EQUITABLE WAIVER

To: ZONING BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. _____

DATE FILED _____

ZONING BOARD CLERK

Name of applicant _____ Phone _____

Address _____

E-Mail _____

Owner of property concerned _____

Address _____

Location of property _____

Map _____ Lot _____ Block _____ Zone _____

Description of property _____

(give length of frontage, side & rear)

Proposed use or existing use affected _____

The undersigned hereby requests an equitable waiver to the terms of *RSA 674:33-a*, sub-section _____
and asks that said terms be waived to permit _____

The undersigned alleges that the violation occurred by virtue of a good-faith error in calculation or measurement and thus constitutes grounds for an equitable waiver

Signed _____ Date _____

Considerations Governing Granting of a Dimensional Equitable Waiver (*RSA 674:33-a*):

1. 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.

2. 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.

3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other properties in the area, nor adversely affect any present or permissible future uses of any such property.

4. 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.

5. If all 4 of the above are not proven by the property owner, an equitable waiver may still be granted if the property owner can prove to the satisfaction of the Board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has commenced against the violation during that time by the municipality or any person directly affected.
