

# ZONING BOARD OF ADJUSTMENT

## Town of Salem, New Hampshire

### EQUITABLE WAIVER APPLICATION

THIS EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS UNDER THE PROVISIONS OF RSA 674:33-a, ONLY APPLIES TO VIOLATIONS OF A PHYSICAL LAYOUT, MATHEMATICAL OR DIMENSIONAL REQUIREMENT. **THE WAIVER IS NOT PROVIDED FOR USE RESTRICTIONS.**

**Name of Applicant:** \_\_\_\_\_ **Tel: #** \_\_\_\_\_

**Address of Property:** **Salem, NH 03079** \_\_\_\_\_

**Owner of Property:** \_\_\_\_\_ **Tele #:** \_\_\_\_\_  
If same as above, write same.

**Address of Owner:** \_\_\_\_\_  
If same as above, write same.

**Location of Property:** **Map #:** \_\_\_\_\_ **Lot #:** \_\_\_\_\_

**Zoning Classification:** \_\_\_\_\_

**Are there any current Zoning Violations on the Property other than those that may be listed on this Application?** (If Yes, please fully describe below). **YES** \_\_\_\_\_ **NO** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

The undersigned hereby requests an Equitable Waiver of Dimensional Requirements under the provisions of RSA: 674:33-a, from Article \_\_\_\_\_, Section \_\_\_\_\_ to allow the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned alleges that the following circumstances exist to support this request.

- 1. GOOD FAITH MISTAKE:** The Owner, or Applicant, must show that the violation occurred by virtue of a good faith error in calculations or measurements, on the part of either the owner, owner's agent or a municipal officer, or was due to a municipal official's mistake in construing the local ordinance when the official was in the process of issuing a permit over which the official had authority. (NOTE: Ignorance of the law or Ordinance does not count as a "mistake" nor does "failure to inquire, obfuscation, misrepresentation or bad faith").

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2. NOT DISCOVERED UNTIL TOO LATE:** The Owner or Applicant must show that the mistake was discovered after a structure in violation was already 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.

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**3. NO NUISANCE:** The Owner, or Applicant, must prove to the Zoning Board of Adjustment’s satisfaction, that the violation does not constitute a public or private nuisance, (or) diminishes the value of other property in the area, (or) adversely affect any present or permissible future uses of the property in question.

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**4. HIGH CORRECTION COST:** The Owner, or Applicant, must provide sufficient information 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, that it would be unfair to require the violation corrected.

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*As an alternative to #1 & #2, the Owner, or Applicant, can demonstrate to the satisfaction of the Zoning Board of Adjustment that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violations has been commenced against the property during that time by either the town or any person directly affected. Even under this alternative, the Owner, or Applicant, must still prove the “No Nuisance” and “High Correction Cost” factors in #3 and #4.*

Has this violation existed for over ten years without any attempts by the Town to take enforcement action?

Yes\_\_\_\_\_ NO\_\_\_\_\_

**By filing this application you are authorizing us to come onto your property to do necessary site inspections.**

**The undersigned acknowledge that to the best of their knowledge all of the above information is true and correct.**

\_\_\_\_\_  
**Signature of Applicant**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Property Owner**

\_\_\_\_\_  
**Date**