TOWN OF DERRY – ZONING BOARD OF ADJUSTMENT
APPLICATION CHECKLIST
FOR VARIANCE / ADMINISTRATIVE APPEAL

FOR AN APPLICATION TO BE CONSIDERED COMPLETE AND PLACED ON AN AGENDA, YOU MUST HAVE THE FOLLOWING:

1. Application Form Completed ( )
2. Complete Abutters List ( )
3. Letter of Explanation – 10 copies ( )
4. Letter from Owner authorizing applicant to file on owner's behalf or a Purchase & Sales Agreement (if not the owner) (You may blank out confidential information regarding sales price, etc.) ( )
5. Filing Fee: $100.00 – plus abutter notification fees ( )
6. Vicinity Ownership Map: 10 copies of Plot Plan/Tax Map ( )
7. Current Recorded Deed with copy of any covenants. (book & page) ( )
8. 10 Copies of Certified Plot Plan (recommended) clearly showing the proposed use. ( )
   Commercial Site/Subdivision Plan ( )

PLAN MUST SHOW

A. Location of existing and proposed buildings and additions and their dimensions in square feet. ( )
B. Distances on all sides between buildings and property lines. ( )
C. Generalized floor plan showing dimensions and the square Footage of areas for proposed uses. ( )
D. Information on septic system – existing or proposed ( )

You should be prepared to make a presentation to the Board of Adjustment at the public hearing addressing the criteria. If your request is granted – you may apply for a building permit after waiting the 30 day appeal period.

NOTE: **PLEASE MAKE SURE THAT ALL PAPERWORK SUBMITTED TO THE BOARD HAS YOUR NAME/ADDRESS ON IT FOR PROPER IDENTIFICATION.**

Should you require further assistance contact the Administrative Secretary of the Building Dept. @ (603) 432-6148

Form Revised 05/31/2015

DERRY ZONING BOARD OF ADJUSTMENT – INFORMATION SHEET

The Board of Adjustment meets on the first and third Thursday of each month.

When applying for a VARIANCE or EXCEPTION:

Forms are to be filled out by the applicant.

Abutters must be notified by this office by certified mail:

1. Abutters are all property owners adjacent to, adjoining, or directly across the street from the property.
2. You must **PRINT** names and addresses of abutting property owners in the space provided on the form. Names and addresses are your responsibility. They are on file in the Assessor's Office **(You must use LEGAL MAILING ADDRESSES)**.

FEE: $100.00 filing fee and abutter fees must be paid at time of application.

FOR THE NIGHT OF THE MEETING:

You make your presentation before five members of the Board providing them with information relative to your request based on the five criteria used by the Board in granting variances, or 10 points required for granting an exception (information on application form).

PICTURES, SKETCHES, OR DIAGRAMS ARE HELPFUL IN YOUR PRESENTATION, AND ARE A NECESSARY PART OF YOUR PRESENTATION BEFORE THE BOARD.

ANY INFORMATION GIVEN TO THE BOARD MEMBERS THE NIGHT OF THE MEETING should also be given to the recording secretary.

YOU OR YOUR AGENT MUST ATTEND THE MEETING TO PRESENT YOUR CASE

Form Revised 05/31/2015

HOW TO APPLY FOR A VARIANCE

VARIANCE: A variance is an authorization, which may be granted under special circumstances, to use your property in a way that is not permitted under the strict terms of the zoning ordinance.

For a variance to be granted, you must show that your proposed use meets all **FIVE (5)** of the conditions outlined below:

1. **There shall be no diminution in value of surrounding properties**.
This means that by granting the variance the value of the surrounding properties will not be adversely affected.

2. **Granting the variance would be in the public interest.**
This means that granting the variance will provide a benefit to the community.

3. **A hardship must exist which is inherent in the land in question**.

4. **By granting the variance substantial justice will be done.**
This means any loss to the individual that is not outweighed by a gain to the general public is an injustice.

5. **The use must not be contrary to the spirit and intent of the ordinance**.
The zoning ordinance was established to promote the "health, safety, and general welfare of the community". How would granting the variance support the purpose of the zoning ordinance?

APPEAL PROCESS

Within a period of 30 days after a decision has been made by the Board of Adjustment, **any person directly affected by the decision has the right to appeal that decision**.
NEW EVIDENCE MUST BE PROVIDED WITH A REQUEST FOR REHEARING

A request for a rehearing must be made in writing clearly stating any errors in law or new evidence that has come to light and must fully set forth every ground upon which it is claimed that the decision is unlawful or unreasonable. The new evidence might reflect a change in conditions that has taken place since the first hearing; or information that was unobtainable because of the absence of key people; or for other valid reasons.

The Zoning Board of Adjustment will vote at its next meeting whether to grant the rehearing or not. If granted, it is necessary to fill out forms and notice abutters again in order that you may be heard at the next available meeting.

RSA 677:4 – **Appeal from a Decision on Motion for Rehearing**
Any person aggrieved by any order or decision of the Zoning Board of Adjustment may apply to the Superior Court within thirty (30) days after the action complained of has been recorded, setting forth that such decision or order is illegal or unreasonable in whole or in part, and specifying the grounds upon which the decision or order is claimed to be illegal or unreasonable.

TOWN OF DERRY, NH
APPLICATION FOR A VARIANCE

FEES: $100.00 PLUS ABUTTER NOTIFICATION FEES

I hereby apply for a hearing requesting:

A **VARIANCE** to the terms of Article _____ Section _____

NAME OF APPLICANT _____

MAILING ADDRESS _____

TELEPHONE (_____)_____

OWNER OF PROPERTY _____

MAILING ADDRESS _____
(If Applicant and Owner are the same person, write "SAME")

LOCATION OF PROPERTY _____
(Include tax map number and street)

PROPOSAL _____

_____

_____

Attach plot plan to show front, side and back lot lines and setbacks.

It is the responsibility of the applicant to provide current names and mailing addresses of abutters. A form is provided on the reverse side of this application. (Abutters include owners of all property touching the lot in question in ANY way and directly across the street.)

APPLICANT'S SIGNATURE _____DATE _____

Form Revised 05/31/2015

NOTE: Please include name of applicant and owner of parcel.

TAX LOT #	NAME	MAILING ADDRESS	ZIP

Form Revised 05/31/2015

TOWN OF DERRY, NH
APPLICATION FOR A VARIANCE

APPLICANT: _____ DATE: _____

State that the following circumstances exist which prevent compliance with the strict terms of the Zoning Ordinance. Be brief. You will be asked to amplify your reasons at the hearing.

1. The variance will not be contrary to the public interest because…..

_____

_____

2. The spirit of the ordinance is observed because…….

_____

_____

3. Substantial justice is done because…….

_____

_____

4. The values of surrounding properties are not diminished because……

_____

_____

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship…..

   A. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area.

      (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…..

_____

_____

(ii) The proposed use is a reasonable one.

_____

_____

B. IF the criteria in subparagraph (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…..

_____

_____

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provisions of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or other requirement of the ordinance.