

This is an application requesting approval of an equitable waiver of dimensional requirements because an existing structure or physical layout of property has been discovered to be in violation of one or more requirements of the Hillsborough Zoning Ordinance. Waivers are only for physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted by the Zoning Board of Adjustment shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the Zoning Ordinance.

1. Waiver Request Check here if description or additional pages are attached

Check all that apply:

This application for a waiver for an **existing structure**.

This application for a waiver for an **existing property**.

The undersigned hereby requests that the Board of Adjustment grant an equitable waiver of dimensional requirements of the Hillsborough Zoning Ordinance Section(s) _____ in order to address the following violation(s):

2. Criteria Check here if description or additional pages are attached

In order to secure an equitable waiver of dimensional requirements, the Zoning Board of Adjustment must determine by law that your variance request satisfies the following criteria, which are more specifically set forth in [RSA 674:33-a](#). Please provide a written response along with any other supporting documentation for each of the following criteria. Please note that all criteria must be satisfied and supported by the Board in order for an equitable waiver to be granted. Should the space be provided be inadequate, please attach additional pages to this application.

A. Please answer the following:

1. **Has the violation existed for ten (10) years or more?** YES NO
2. **Has there been any enforcement action, including written notice of violation, commenced against the violation during that time by the municipality or any person directly affected?** YES NO

If the answer to Question 1 is YES and the answer to Question 2 is NO, then you may skip to address Criterion D & E only. Otherwise proceed to and address Criterion B through E.

B. That 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.

C. That 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.

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

E. 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.

3. Additional Submittals

The following items are required to complete the application and must be attached:

_____ Three (3) copies of plat, survey, or site plan of the subject property for which the variance is requested clearly depicting the proposed variance prepared by a licensed surveyor, civil engineer, or architect. At least seven (7) reduced size (11"x17") plan sets is also required. Submittal standards for plats shall be those as detailed in the Subdivision Regulations and/or Site Plan Review Regulations. The applicant shall retain the right to petition the Zoning Board of Adjustment to grant waivers to any plat standards as defined. In addition to these requirements, the ZBA, at its discretion, may require additional information be provided.

_____ Affidavit of Ownership (copy of warranty deed).

_____ Completed Form N – Certified Notification List