

## Board of Appeals Variance Requirements

The Board of Appeals may grant a variance from the dimensional standards of the Town's ordinances. In the application, you will document and describe your project, and why it meets the standards for a Variance as outlined in the Town of Lebanon's Board of Appeals Ordinance.

Before any application can be processed, the following material must be submitted to the Town (CEO, Land Use Clerk or Selectmen's Asst.) who will then forward to the Chairman of Board of Appeals:

1. A fee of \$150.00 payable to the Town of Lebanon, shall be put on deposit as a down payment towards the cost of notice of public hearing in the newspaper. Balance due upon notification of actual cost.
2. An electronic submission of all application material in pdf format and five (5) paper copies of all application material. This should include (but not limited to):
  - Copy of Property Deed showing ownership in subject property
  - Current Property Survey
  - List of all abutters with names, streets and mailing addresses
  - Legible PLOT PLAN drawn to scale that includes:
    1. Size and shape of lot including lot square footage
    2. Names of abutting owners, name and location of abutting rights of way, public and private, and abutting water bodies.
    3. Size and location of existing buildings/structures to scale, including lot coverage in square footage and percentage of total square footage as well as finished living space square footage.
    4. Location of sewage disposal system and water supply.
    5. Size and location of proposed buildings and/or alternatives to scale, including lot coverage in square footage and finished living square footage
    6. Other information relevant to your specific variance such as parking, decks, utilities, drainage etc.
    7. Verification by licensed surveyor at determination of Code Enforcement Office.
  - Legible BUILDING PLANS (if applicable) that include:
    1. Existing building floor plans with building dimensions.
    2. Proposed buildings or additions with floor plans, building dimensions, external views, front, rear, right and left sides.
    3. Building elevations that show each side of the building and its architecture.

The Board of Appeals meets as required. All materials pertaining to the appeal must be submitted to the Town. They will then be reviewed for completeness and then a date will be scheduled for a Public Hearing.

## **DEFINITION OF A VARIANCE**

A variance is a relaxation of the terms of an Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance will result in undue hardship. As used in this Ordinance, a variance is authorized only for height, minimum lot size, structure size, setbacks, and open space requirements. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance. The board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used means:

- A. The land in question cannot yield a reasonable return unless a variance is granted;
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. The granting of a variance will not alter the essential character of the locality; and
- D. The hardship is not the result of action taken by the applicant or a prior owner.

In order to demonstrate that the land cannot yield a reasonable return without a variance, the applicant must demonstrate that they will be deprived of all beneficial use of their land. Neither financial hardship alone or pleading that a greater profit may be realized from the applicant's property were a variance granted shall be sufficient evidence of undue hardship.

**PLEASE NOTE:** The burden of proof on proving undue hardship lies solely with the owner/applicant. Be prepared to answer all questions pertaining to the specific type of appeal requested. Also, please be sure to bring 5 copies of any documentation you plan to present as evidence during your hearing, if not already included in initial application package.

## Application for a Variance

Name of Owner: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

Property Location: \_\_\_\_\_

Assessors Map & Lot Number: \_\_\_\_\_

Is the property located in a Shoreland Zone?      Yes\_\_\_\_      No\_\_\_\_

Is the property located in a Flood Zone?      Yes\_\_\_\_      No\_\_\_\_

Name of Representative: \_\_\_\_\_  
(if other than property owner)

Representative Mailing Address: \_\_\_\_\_

Representative Phone Number: \_\_\_\_\_

Representative E-Mail Address: \_\_\_\_\_

### **PROJECT DESCRIPTION AND CIRCUMSTANCES (use additional pages as necessary)**

A. Generally describe the project and why a variance is needed:

B. List the exact dimensional reduction requested:

C. There are four criteria which must be met before the Board of Appeals can find a hardship exists.  
Please explain how your situation meets the criteria listed below.

1. The land in question cannot yield a reasonable return unless the variance is granted:  
(Reasonable return does not mean maximum return; applicant must demonstrate practical loss of virtually all reasonable use of the land if the variance is not granted; reasonable return is not determined by personal circumstances of the applicant.)
  
2. The need for the variance is due to the unique circumstance of the property: (This criterion applies to property, not people and to an uncommon condition not shared by the neighborhood.)
  
3. The granting of the variance will not alter the essential character of the locality:  
(Essential Character: Characteristics of the neighborhood, such as density development, large open space, or rural, etc.)
  
4. The hardship is not the result of action taken by the applicant or a prior owner of the property: (Hardship must be caused by imposition by ordinance restriction, not by action taken by the property owner.)

Appellant oath and signature I, the undersigned, certify that the information contained in this application and the supporting documentation is true, accurate, and correct to the best of my knowledge.

Signature \_\_\_\_\_ Date \_\_\_\_\_