

# **HOLDERNESS ZONING BOARD OF ADJUSTMENT**

POST OFFICE BOX 203  
HOLDERNESS, NH 03245-0203

## APPLICATION FORMS AND INSTRUCTIONS

|   |               |
|---|---------------|
| Index Sheet                             | A-1           |
| Listing of Application Fees             | A-2           |
| Instructions to Applicant               | A-3 (4 pages) |
| Application Form                        | A-4 (2 pages) |
| Agent Form                              | A-5           |
| Abutters List                           | A-6           |
| RSA 676: 5                              | A-7           |
| Application for Variance                | A-8 (2 pages) |
| Application for Special Exception       | A-9 (2 pages) |
| Application for Administrative Decision | A-10          |
| Check List                              | A-11          |

**ZBA APPLICATION FEES**

|   |         |
|---|---------|
| VARIANCE .....  | \$75.00 |
| SPECIAL EXCEPTION .....                               | \$75.00 |
| ZONING DISTRICT BOUNDARY DEFINED .....                | \$75.00 |
| MOTION FOR REHEARING .....                            | \$40.00 |
| APPEAL OF AN ADMINISTRATIVE DECISION.....             | \$40.00 |
| ABUTTER NOTIFICATION (each, including applicant)..... | \$ 8.00 |

**INSTRUCTIONS TO APPLICANT S APPEALING TO THE  
HOLDERNESS ZONING BOARD OF ADJUSTMENT**

IMPORTANT: READ CAREFULLY BEFORE FILLING OUT ATTACHED APPLICATION.

The Zoning Board of Adjustment strongly recommends that before making any appeal you become familiar with the Zoning Ordinance, Board by-laws, and the New Hampshire Statutes RSA 672 to 677, covering Planning and Zoning.

For any appeal, the Application Form, A-4, must be properly filled out. The Application Form is intended to be self-explanatory but be sure that you show:

WHO owns the property? If the applicant is not the owner, the Agent Form A-5 must be filled out.

WHERE is the property located? District, Tax /Appraisal Map and Lot #, current use of the property and use affected or proposed use of property.

DESCRIBE the property. Give area, frontage, side and rear lines, slopes, all buildings and structures with their locations and dimensions and all wells, and septic systems with their locations and dimensions.

WHAT do you propose to do? Attach sketches, plot plans, pictures, construction plans, or whatever may help explain the proposed use. Include copies of any prior applications, any State or Local Permits or Decisions concerning the property.

WHY does your proposed use require an Appeal to the Board?

WHY should the Appeal be granted?

Prepare a list of all abutting property owners (Form A-6), verify it and attach it to your Application. The names and addresses should be those of the current owners as recorded in the Registry of Deeds and the Town of Holderness tax records. The accuracy of the list is your responsibility. Under the Law all abutters must be notified of the hearing on your Appeal, and failure to include any might invalidate the proceedings.

**RSA 672:3 ABUTTER**

"Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other form of collective or association as defined in RSA 356-B;, XXIII

THE FOLLOWING APPEALS TO THE BOARD MAY BE MADE:

**VARIANCE** - (Fill out Forms A-4, A-5, A-6, & A-8)

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 legally granted, you must show that your proposed use meets ALL FIVE of the following conditions:

- (1) The variance will not be contrary to the public interest;
- (2) The spirit of the ordinance is observed;
- (3) Substantial justice is done;
- (4) The values of surrounding properties are not diminished; and
- (5) Literal enforcement of the provisions of the ordinance would result in an *unnecessary hardship*.

You must have some form of determination that your proposed use is not permitted without a variance. A copy of the determination must be attached to your application.

IF YOUR PETITION IS DENIED YOU MAY FILE AN APPLICATION FOR REHEARING ON THE BOARD'S DECISION: (No form is supplied. You must attach a written motion to the first page of this Application)

If you believe the Board's decision is wrong, you have the right to appeal. The Selectmen, or any party affected, have similar rights to appeal the decision in your case. To appeal, you must first ask the Board for a rehearing. The Motion for Rehearing may be in the form of a letter to the Board attached to the first page of the application. The motion MUST BE MADE WITHIN 30 CALENDAR DAYS OF THE BOARD'S DECISION, and must set forth FULLY AND IN DETAIL ALL THE GROUNDS ON WHICH IT IS CLAIMED THE DECISION IS UNLAWFUL OR UNREASONABLE. The Board may grant such a rehearing only if in its opinion good reason therefore is stated and substantiated in the motion. "Good Reason" might be a claim by the petitioner that a technical error has been made, or that he can produce new evidence which was not available to him at the time of the first hearing. The Board will not re-open a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. When a rehearing is held, the same procedure as in the first hearing will be followed; including public notice and notice to abutters will be followed.

Following the Board's final decision after a Rehearing or if the Motion for Rehearing is denied, you have thirty (30) days in which to appeal to the Superior Court. However, no such Appeal may be taken unless you have first applied for a Rehearing. The only grounds for appeal the Court will hear are those set forth in your Motion for Rehearing

**SPECIAL EXEMPTION** - (Fill out Forms A-4, A-5, A-6, & A-9)

Certain sections of the Holderness Zoning Ordinance provide that a particular use of property in a particular Zone, will be permitted by Special Exception if specified conditions are met

1. If you are applying for a SPECIAL EXCEPTION you may need a detailed site plan setting forth all details required under Article IX, of the Zoning Ordinance.
2. You must have some form of Determination that your proposed use is not permitted without a Special Exception. A copy of the Determination must be attached to your Application.

**APPEAL FROM AN ADMINISTRATIVE DECISION** - (Fill out Forms A-4, A-5, A-6, & A-10) If you have been denied a building permit or are affected by some other decision regarding the administration of the Holderness Zoning Ordinance, and you believe that the decision was made in error, under the provisions of the ordinance, you may appeal the decision to the Board of Adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

1. Appeals from Administrative Decisions must be filed with the Board within thirty (30) calendar days of the decision.
2. A copy of the decision appealed from, and all papers, documents, plans presented to the Compliance Office making the decision appealed from, must be attached.
3. You must file notification of this appeal with the Administrative Officer who made the decision you are appealing.

**DISTRICT BOUNDARY DETERMINATION** - (No Form is supplied by the Board. A written request is required and must be attached to page one of the Application)

In any instance where there is doubt as to the location of a Zoning District Boundary, the Board of Adjustment shall determine the location of such Boundary, Zoning Ordinance Article III, Section C.

If applicable, you must attach:

1. A copy of New Hampshire Energy Code Compliance Certificate.
2. If your use is "Expanding or Converting" use under RSA 149-E a copy of the W.S.P.C.D. approved Sewage Disposal System.
3. If you are winterizing or doing a seasonally conversion (Article IV, Section N, Zoning Ordinance) a copy of the Holderness Compliance Officer's report on your water supply and septic system.
4. Condominium Association documents.

Mail or deliver your completed application and fees with attachments to:

Town of Holderness  
Zoning Board of Adjustment  
PO Box 203  
Holderness, NH 03245-0203

Fees are determined by the Board of Selectmen. (See Form A-2, Fee Schedule) Your check must be included with your application. Make checks payable to the Town of Holderness.

When your properly completed application is received, the Board will review and accept, or return improperly filled out applications. If your application is accepted, the Board will schedule a public hearing to be held within 30 days. Public notice will be mailed to you and to all abutters and other parties whom the Board may deem to have an interest, and will be posted and published in a local newspaper at least 5 days prior to the hearing. You and all other parties will be invited to appear in person or by Agent or Counsel to state reasons why the appeal should or should not be granted. **BEAR IN MIND THAT IT IS UP TO YOU TO SHOW THAT YOU DO MEET THE REQUIREMENTS** for

your Appeal to be granted.

Following the public hearing, the Board will reach a decision and a Notice of Decision will be mailed to you. If your Appeal is denied, the denial will be sent to you by Certified Mail.

When the Board attaches conditions to any decision it issues, it may require a Compliance Hearing on the applicant's compliance with conditions. If so ordered the notification and costs of advertising shall be born by the Applicant. (See Holderness Zoning Board of Adjustment By-Laws for complete details)

For detailed requirements of the Law you are referred to New Hampshire Revised Statutes Annotated Chapter's 672 to 677, the Zoning Ordinance of the Town of Holderness, and the By-Laws of the Holderness Zoning Board of Adjustment. This instruction sheet summarizes some of the required procedures but does not in any way replace any provisions of Law, Town Ordinance, or By-Law Requirement.

**Town of Holderness**  
Zoning Board of Appeals  
PO Box 203, Route 3  
Holderness, NH 03245-0203  
Phone: (603) 968-2145  
Fax: (603) 968-9954

**TOWN OF HOLDERNESS  
APPLICATION FOR APPEAL**

Docket#

TO: Holderness ZBA  
Town of Holderness  
PO Box 203  
Holderness, NH 03245-0203

Applicant:  
Address

Phone

Owner:  
Address

Phone

|                    |
|--------------------|
| Date Filed         |
| Amt. Rec.          |
| Rec. by            |
| Reviewed           |
| Acpt. ___ Rej. ___ |
| Case #             |
| Hearing            |
| Decision           |
| Sent               |
| Closed             |

Board Use Only

If Applicant is the same as Owner write SAME, if not, you must complete the Agent Form, A-9, provided; include a statement of your vested interest

LOCATION OF PROPERTY: District \_\_\_\_\_ Tax Map \_\_\_\_\_ Lot # \_\_\_\_\_  
Lot Size \_\_\_\_\_ Shore Frontage \_\_\_\_\_

You MUST attach:

1. Copy of Tax /Appraisal Card.
2. Abutters list on the form provided by the Board.
3. Map drawn to scale showing all dimensions and variance distances as needed, and location of all existing/proposed buildings structures, septic systems, and well. All boundaries, roads, rights of way, contours/slopes of land.
4. Show the exact amount of the variance needed on a map and application.

THE BOARD MAY REQUIRE FURTHER DOCUMENTATION AS A PART OF THIS APPLICATION IN SPECIAL SITUATIONS.

PROPOSED USE AND EXISTING USE \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IS THE PROPERTY FOR SEASONAL USE \_\_\_ OR YEAR AROUND  
RESIDENTIAL USE \_\_\_ (Check One)

Have any previous appeals/decisions or permits (State and or Town) been made in regard to this property \_\_\_ (If yes, attach copies)

Type of Request:

- Appeal of Administrative Decision (Form A-10)
- Application for Special Exception (Form A-9)
- Application for Variance (Form A-8)
- Zoning District Boundary Determination (No Form, use a written request)
- Application for Rehearing of ZBA Decision (No Form)

COMPLETE AND ATTACH THE ABOVE REQUIRED, SECTION, MOTION. OR REQUEST.

Any correspondence or questions the Board may have should be addressed to:

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THIS APPLICATION IS NOT ACCEPTABLE UNLESS ALL REQUIRED STATEMENTS HAVE BEEN MADE. ADDITIONAL INFORMATION MAY BE SUPPLIED ON A SEPARATE SHEET IF ADDITIONAL SPACE IS NECESSARY.

NOTE: IT IS YOUR RESPONSIBILITY TO SUPPLY ALL REQUIRED INFORMATION AND TO PRESENT AND PROVE YOUR CASE.

The undersigned applicant hereby applies for the granting of said Variance, Special Exception, Relief From Administrative Decision, Request For Rehearing, or District Boundary Determination under penalties of perjury; I/we represent that to the best of my/our knowledge, the data and information submitted as part of this Application is true and correct.

The undersigned applicant hereby authorizes the Zoning Board of Adjustment members and/or town staff to inspect the subject property for the purpose of evaluating this Application.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Signature of Owner \_\_\_\_\_ Date \_\_\_\_\_

**AGENT FORM**

AGENT FORM: Complete this form if Applicant is other than the Owner of the property

Agent's Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

Give a statement of your vested interest: (You may supply this statement on a separate sheet if additional space is necessary.)

Signature of Agent \_\_\_\_\_ Date \_\_\_\_\_

If Applicant is other than the Owner of the property, obtain Owner's Signature.

The undersigned Owner hereby authorizes the Holderness Zoning Board of Adjustment member and/or town staff to inspect the subject property for the purpose of evaluating this Application.

Signature of Owner \_\_\_\_\_ Date \_\_\_\_\_

The undersigned Owner of the property under application hereby authorizes the above named Agent to act for \_\_\_\_\_ in presenting this Appeal and furnishing all required information.

**ABUTTERS LIST**

To be attached to and submitted with all applications

Name of Applicant: \_\_\_\_\_ Tax Map # \_\_\_\_\_

Address: \_\_\_\_\_ Lot # \_\_\_\_\_  
(Location of property) Zoning District # \_\_\_\_\_

Address: \_\_\_\_\_  
(Mailing)

ABUTTER means any person whose property adjoins or is directly across the street or stream from the land under consideration by the Zoning Board of Adjustment. (RSA 672:3)

1. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

2. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

3. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

4. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

5. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

6. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

7. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

8. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

9. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

10. Name: \_\_\_\_\_ Tax Map No. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Address: \_\_\_\_\_

This Board is not responsible for the information supplied above. Information is available from Tax Maps and Books at the Holdemess Town Office.

**RSA 676: 5 Appeals to Board of Adjustment**

1. Appeals to the Board of Adjustment concerning any matter within the Board's powers as set forth in RSA 674:33 may be made by any person aggrieved by any officer, department, board, or bureau of the municipality affected by any decision of the Administrative Officer. Such Appeal shall be made within reasonable time, as provided by the Rules of the Board, by filing an appeal specifying the grounds. The officer from whom the appeal is taken shall transmit to the Board all the papers constituting the record of the action being appealed.

2. For the purpose of this Section:

a. The "administrative officer" means any Official or Board who, in that municipality, has responsibility for issuing permits or certificates under the ordinance, or for enforcing the ordinance, and may include a Compliance Officer, Board of Selectmen, or other official or board with such responsibility.

b. A "decision of the administrative officer" includes any decision involving construction, interpretation or application of the terms of the ordinance. It does not include a discretionary decision to commence formal or informal enforcement proceedings, but does include any construction, interpretation or application of the terms of the ordinance which is implicated in such enforcement proceedings.

**NOTE: IT IS YOUR RESPONSIBILITY TO SUPPLY ALL REQUIRED INFORMATION AND TO PRESENT AND PROVE YOUR CASE.**

**APPLICATION FOR VARIANCE**

(Holderness Zoning Ordinance, Article VIII Section C)

A variance is requested from Article \_\_\_\_\_ Section \_\_\_\_\_ of the Town of Holderness Zoning Ordinance, to permit:

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FACTS SUPPORTING THIS REQUEST in accordance with RSA 674:33 I(b)

(1) The variance will not be contrary to the public interest;

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(2) The spirit of the ordinance is observed;

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(3) Substantial justice is done;

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(4) The values of surrounding properties are not diminished; and

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(5) Literal enforcement of the provisions of the ordinance would result in an *unnecessary hardship*.

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(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; and

(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 provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

NOTE: It is your responsibility to supply all required information and to present and prove your case. You may attach any additional information, dimensional sketches or pictures, construction plans, plot plan, and additional pages of explanation which might be helpful in describing the proposed use.

Additional facts supporting this request- (Holderness Zoning Ordinance Article VIII Section C)

1. Show the specific Variance, if granted, represents the minimum Variance that will afford reasonable relief to the owner and is necessary for a reasonable use of the property:
2. Show the granting of the Variance will be in harmony with the general purposes of this Ordinance and with the convenience, welfare, and character of the district within which it is proposed and will not be injurious or otherwise a detriment to the public welfare:
3. Show if the proposed use is a permitted use, as described under Article III of the Holderness Zoning Ordinance.

**APPLICATION FOR A SPECIAL EXCEPTION**

(RSA 674: 33, Holderness Zoning Article, IX Section B)

Describe the proposed use showing justification for a Special Exception as specified in the Holderness Zoning Ordinance Articles IX and all other condition enumerated in the Ordinance:

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1. The specific site is an appropriate location for the use or structure because:

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2. The use will be compatible with neighboring land uses because:

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3. Show that the property values in the District will not be reduced by your use:

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4. There will not be any nuisance or serious hazard to vehicles or pedestrians because:

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5. That adequate and appropriate facilities are proposed for the proper operation of the proposed use because:

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6. The proposed use complies with the minimum land space requirements set forth in the General and Special provisions of the Ordinance because:

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7. The capacity of existing roads and highways to carry additional traffic is adequate because:

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YOU WILL NEED A DETAILED SITE PLAN AS REQUIRED IN ARTICLE IX SECTION A OF THE HOLDERNESS ZONING ORDINANCE.

Additional facts supporting this request- (Holderness Zoning Ordinance Article VIII Section C)

- Show the specific Variance, if granted, represents the minimum Variance that will afford reasonable relief to the Owner and is necessary for a reasonable use of the Property:
- Show the granting of the Variance will be in harmony with the general purposes of this Ordinance and with the convenience, welfare, and character of the District within which it is proposed and will not be injurious or otherwise detrimental to the public welfare:
- Show the proposed use is a permitted use, as described under Article III of the Holderness Zoning Ordinance.

NOTE: It is your responsibility to supply all required information and to present and prove your case. You may attach any additional information, dimensional sketches or pictures, construction plans, plot plan, and additional pages of explanation which might be helpful in describing the proposed use.

**APPLICATION FOR APPEAL FROM ADMINISTRATIVE DECISION**  
(RSA 676: 5, Holderness Zoning Ordinance Article VIII B)

Relating to the interpretation and enforcement of the provisions, of the Zoning Ordinance RSA 676:5,II(a): The "administrative officer" means any Official or Board who, in that Municipality, has responsibility for issuing Permits or Certificates under the Ordinance, or for Enforcing the Ordinance, and may include a Compliance Officer, Board of Selectmen, or other Official or Board with such responsibility.)

ADMINISTRATIVE OFFICER making decision appealed from: \_\_\_\_\_

Decision to be reviewed:

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

Article: \_\_\_\_\_ Section: \_\_\_\_\_ of the Holderness Zoning Ordinance in Question. List and describe fully all the reasons the Board should grant this Appeal:

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

The date the decision was made for which you are appealing: \_\_\_\_\_

**NOTICE: APPEALS FROM AN ADMINISTRATIVE DECISION TAKEN UNDER RSA 676: 5 SHALL BE FILED WITHIN 30 CALENDAR DAYS OF THE DECISION. RSA 677**

**APPLICATION CHECK LIST**

FAILURE TO PROVIDE ALL OF THE DOCUMENTS LISTED AND FEES MAY PREVENT THE BOARD FROM HEARING YOUR APPEAL.

IN ORDER TO SAVE TIME AND AVOID UNNECESSARY EXPENSES, PLEASE GO OVER THIS LIST CAREFULLY BEFORE SUBMITTING YOUR APPLICATION APPEAL

**THE FOLLOWING SHOULD ACCOMPANY YOUR APPLICATION FOR APPEAL IN ORDER TO BE CONSIDERED COMPLETE, UNLESS A WAIVER IS REQUESTED**

1. Properly completed Application. Be sure to list Zone that your property is located in and show the amount of Variance needed. (Example: If you wish to build 20 ft. from a side line and the Ordinance requires a 35 ft. set back, then you need a Variance of 15 ft.)
2. List of Abutters.
3. Proper Fees. Application Fee plus \$8.00 certified mailing fee for each Abutter and Applicant. Be sure that you have counted yourself when calculating the certified mailing fee.
4. If you do not own the subject property, a statement showing your vested interest must be part of the Application.
5. If relevant, a copy of the Condominium Association's By-Laws.
6. Include copies of any prior Applications and Decisions on the property. (State and/or Town Decisions)
7. Copy of Tax/Appraisal Card.
8. A clearly drawn map of property giving all dimensions and showing location and dimensions of all existing buildings and proposed buildings, structures, etc. Provide one full size plan and five (5) 11" x 17" plans. (*If variance is for a septic design, 5 copies of the plan are required*)
  - Map should be up to date and dated.
  - Map should be drawn to scale with drawing number and north arrow.
  - Name of Preparer & Official Seal of Licensed Engineer/ Surveyor as necessary.
  - Lot dimensions, bearings, and any bounding streets and their right-of-way width or half sections.
  - Location and dimensions of existing or required service areas, buffer zones, landscaped areas, recreation areas, safety zones, signs, right-of-ways, streams, drainage, easements.
  - Any other information which may be pertinent to the Board's decision for granting a variance.
  - "Zoning Envelope" made from setbacks required by Zoning Ordinance. Indicate Zone classification, and setbacks dimensions, including front yard for corner lots if a choice is allowed. Indicate any Zone Change Lines.
  - Computed lot and building areas and percentages of lot coverage.
  - Elevations, curb heights and contours, if required or relevant.
  - Location and numbering of parking spaces and lanes with their dimensions. Indicate how required parking spaces are computed.
  - Dimensions and directions of traffic lanes, exits, and entrances.
  - Any required loading and unloading and trash storage areas.
  - Septic tank size and location, leach field size and location, and well location.
  - Any building (s), wells, septic located within setbacks of adjoining property (if known).
  - Your appeal may require a site-walk before final decision.