

Westmoreland Zoning Board of Adjustment

Applicants' Guide

This document contains information that will enable your zoning application to be processed smoothly.

The Zoning Board of Adjustment meets on the **3rd Wednesday of each month.**

For your application to be heard on that Wednesday you will need to have the following items completed and turned in **at least 15 days before the next meeting date.** This gives the ZBA clerk sufficient time to order the newspaper notice and send out the registered mail to property abutters.

- 1) You can find your Map and Lot number located on your property's Tax Card on the Town website westmorelandnh.com. Using the Map number download the appropriate map(s) from the About section of the website.
- 2) Next, locate your property and all the abutters' properties. Abutters are persons whose properties adjoin or are directly across the street or stream from your property. Using the town Tax Cards, you can find property owners and mailing addresses. The form on the next page will help prepare the abutters list.
- 3) You are responsible for covering the cost of the certified letters that will be sent to you and your abutters. The check must be made out to the United States Postal Service. The amount will be the number of abutters plus yourself times the current cost of certified mail. For example, 5 abutters plus yourself = 6 letters x (current certified mail fee + current postage stamp)
- 4) Next write a check for \$100.00 to the town of Westmoreland to pay for the hearing and the newspaper announcement.
- 5) Email Zoning Board Clerk – zbaclerk03467@gmail.com
- 6) The Zoning Clerk (Kaelyn Willette) will contact you by phone or email to ensure you have the background information relevant to your application, in preparation for the Public Hearing. If you don't hear from her within one week of submitting your documents, call 603-399-4471.

WESTMORELAND ZONING & PLANNING BOARD

LIST OF ABUTTERS

Name: _____ Date: _____

Address: _____

Map/Lot# under consideration: _____

Abutter Information:

| Map | Lot | Name | Mailing Address |
|-----|-----|------|-----------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

RSA 672:3 Abutter & Westmoreland Town Ordinance Section 104. – "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.

TITLE LXIV PLANNING AND ZONING

CHAPTER 672 GENERAL PROVISIONS

Words and Phrases Defined

Section 672:3

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 collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. 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 manufactured housing park form of ownership as defined in RSA 205-A: I, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Source. 1983, 447:1. 1986, 33:2. 2002, 216:1, eff. July 15, 2002.

Requirements for Granting a Variance

THE APPLICANT MUST ESTABLISH ALL OF THE FOLLOWING.

| Requirement | Explanation |
|---|--|
| 1. The variance is not contrary to the public interest. | The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.” |
| 2. The spirit of the ordinance is observed. | |
| 3. Substantial justice is done. | The benefit to the applicant should not be outweighed by harm to the general public or to other individuals. |
| 4. The values of surrounding properties are not diminished. | Expert testimony on this question is not conclusive, but cannot be ignored. The board may also consider other evidence of the effect on property values, including personal knowledge of the members themselves. |
| <p>5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship means:</p> <p>Because of special conditions of the property that distinguish it from other properties in the area:</p> <p>(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property; and</p> <p>(b) The proposed use is a reasonable one.</p> <p><i>Alternatively</i>, unnecessary hardship means that, 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.</p> | <p>The applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other similarly situated property.</p> <p>(a) Determine the purpose of the zoning restriction in question. The applicant must establish that, because of the special conditions of the property, the restriction as applied to the property does not serve that purpose in a “fair and substantial” way.</p> <p>(b) The applicant must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood.</p> <p>As an alternative to (a) and (b) above, the applicant can satisfy the unnecessary hardship requirement by establishing that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.</p> |

Requirements for Granting a Special Exception

If your application is for a special use exception, the board must find that the proposed use meets the following conditions. Come to the hearing prepared to speak to following criteria:

- 1) The specific site is an appropriate location for such use.
- 2) Such approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious or offensive to the neighborhood.
- 3) There will be no nuisance or hazard to vehicles or pedestrians.
- 4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.