

TOWN OF
DENMARK, MAINE
"Beautiful by Nature"



BOARD OF APPEALS
APPLICATION PACKAGE
FOR
ADMINISTRATIVE APPEALS
AND ZONING VARIANCES

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TOWN OF DENMARK, MAINE - BOARD OF APPEALS
APPLICATION PACKAGE FOR
ADMINISTRATIVE APPEALS AND ZONING VARIANCES

INSTRUCTIONS

1 of 2

The Town of Denmark Board of Appeals (Board of Appeals) hears and decides certain appeals from determinations made by the Code Enforcement Officer or the Town of Denmark Planning Board (Planning Board) in the enforcement of the Zoning Ordinance of the Municipality of Denmark, Maine (Zoning Ordinance) and hears and decides on certain Zoning Ordinance variance requests. Any person aggrieved by a Code Enforcement Officer or Planning Board action, which comes under the jurisdiction of the Board of Appeals, may file an application in writing on forms provided within this Application Package within thirty (30) days of the granting or denial action. Appeals of the action(s) of the Code Enforcement Officer or the Planning Board may be approved, approved with modifications or conditions, or disapproved by the Board of Appeals in accordance with the terms of the Zoning Ordinance and the Maine Revised Statutes Annotated (MSRA). In granting a variance or variances, the Board of Appeals may prescribe such conditions and safeguards as they deem advisable in order to protect the public interest, health, safety, and general welfare and the purpose of the Zoning Ordinance.

A completed application must be submitted to the Chairperson of the Board of Appeals or to either the Town of Denmark Code Enforcement office or the Town Clerk's office for transmission to the Chairperson. The Chairperson shall conduct a preliminary review of applications for completeness at which time more information may be requested from the Applicant. When the Chairperson finds the necessary information has been provided from the Applicant, the Chairperson will call a regularly scheduled meeting of the Board of Appeals for final review of completeness. Upon the Board of Appeals finding the application complete, a Public Hearing on the application shall be scheduled within 45 days. At the Public Hearing, and at other times, the Chairperson or the Board of Appeals may request submission of additional clarifying and/or augmenting information. The Board of Appeals may schedule a site visit. The Board of Appeals strongly suggests that the Applicant be present at Public Hearings pertaining to the application.

The Board of Appeals shall cause notice of the Public Hearing to be sent to each Denmark property within 500 feet of the property for which the application is taken. The Town of Denmark shall determine those property owners and shall notify the owners via certified mail postmarked at least 10 days prior to the date of the Public Hearing. Application fees and fees for identifying property owners and for distribution of all notices shall be as set forth in the current Town of Denmark Fee Schedule and are the responsibility of the Applicant.

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INSTRUCTIONS

2 of 2

The applications contained herein include:

- Application For Administrative Appeal
- Application For Undue Hardship Variance
- Application For Practical Difficulty Variance
- Application For Disability Variance
- Application For Other Appeals, Variances

For all appeals and variance requests, submit:

- General Information form
- Application for the Administrative Appeal or specific Variance Request
- Exhibit A – Permission to Represent Property Owner (if applicable)
- Exhibit B – Plot Plan(s) and Additional Information (if applicable)
- Application Fee(s) and, when known, application notice expenses

Failure to submit a properly completed application, exhibits, or fees may delay the appeal/variance process.

The Board of Appeals may call for a site visit.

The Applicant is also directed to the Zoning Ordinance for additional information.

Where provisions in this Application Package differ from the MSRA or the Zoning Ordinance, the provisions of the MSRA or the Zoning Ordinance shall supersede.

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GENERAL INFORMATION

NAME OF PROPERTY OWNER(S) / APPLICANT(S):

MAILING ADDRESS: _____

CITY OR TOWN: _____ STATE: _____ ZIP: _____

TELEPHONE: _____

EMAIL ADDRESS: _____

TAX MAP: _____ LOT: _____ DEED BOOK: _____ PAGE: _____

STREET/ROAD LOCATION OF PROPERTY TO BE APPEALED/VARIANCE REQUEST:

PROPERTY ZONING DISTRICT(S): _____

NAME OF PROPERTY OWNER REPRESENTATIVE (if there is one)

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APPLICATION FOR ADMINISTRATIVE APPEAL

Zoning District(s): _____

For an action which comes under the jurisdiction of the Board of Appeals, the Applicant seeks relief from the decision, or lack of decision, of the Code Enforcement Officer or Planning Board because the Applicant believes that (check one or more):

- _____ An error was made in the decision.
- _____ The decision was based on a misinterpretation of the Zoning Ordinance.
- _____ There has been a failure to approve or deny an application within a reasonable period of time.
- _____ Other _____

Applicant explanation: Provide, in detail, the facts surrounding this appeal: Be as specific as possible so the Board of Appeals is able to give full consideration to the appeal:

Continue response on additional sheets if necessary and attach to this application.

Property Owner Signature(s) _____ Date _____

_____ Date _____

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APPLICATION FOR
UNDUE HARDSHIP VARIANCE

1 of 3

Zoning District(s): _____

Nature of variance: Describe generally the nature of the variance request: _____

The Board of Appeals may grant an Undue Hardship Variance only for Zoning Ordinance provisions relating to structure height, lot area, setbacks and size of structures or size of yards or open spaces.

In order for an Undue Hardship Variance to be granted, the Applicant must demonstrate to the Board of Appeals that strict application of the terms of the Zoning Ordinance would cause an undue hardship. There are four criteria that must be met before the Board of Appeals can find that an undue hardship exists. Provide an explanation for how this Undue Hardship Variance application meets each of those criteria listed below:

1. The land in question cannot yield a reasonable return unless an Undue Hardship Variance is granted;

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APPLICATION FOR
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2. The need for an Undue Hardship Variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

3. The granting of an Undue Hardship Variance will not alter the essential character of the locality; and

4. The Undue Hardship is not the result of action taken by the applicant or a prior owner.

Continue responses on additional sheets if necessary and attach to this application. Also see Exhibit B for additional submission information.

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APPLICATION FOR
UNDUE HARDSHIP VARIANCE

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Applicant explanation: Provide, in detail, the facts surrounding this Undue Hardship Variance request: Be as specific as possible so the Board of Appeals is able to give full consideration to the request:

Continue response on additional sheets if necessary and attach to this application. Also see Exhibit B for additional submission information.

Property Owner Signature(s) _____ Date _____
_____ Date _____

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APPLICATION FOR
PRACTICAL DIFFICULTY VARIANCE

1 of 3

Zoning District(s): _____

Nature of variance: Describe generally the nature of the variance request: _____

The Board of Appeals may grant a Practical Difficulty Variance only for Zoning Ordinance provisions relating to lot area, lot coverage, frontage, and setbacks for properties not in the Shoreland District.

Practical Difficulty means that the strict application of the Zoning Ordinance to the property precludes the ability of the Applicant to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the Applicant.

In order for a Practical Difficulty Variance to be granted, the Applicant must demonstrate to the Board of Appeals that strict application of the terms of the Zoning Ordinance would cause a practical difficulty. There are six criteria that must be met before the Board of Appeals can find that a practical difficulty exists. Provide an explanation for how this Practical Difficulty Variance application meets each of these criteria listed below:

1. The need for a Practical Difficulty Variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

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**APPLICATION FOR
PRACTICAL DIFFICULTY VARIANCE**

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2. The granting of a Practical Difficulty Variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

3. The practical difficulty is not the result of action taken by the Applicant or a prior owner;

4. No other feasible alternative to a Practical Difficulty Variance is available to the Applicant;

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**APPLICATION FOR
PRACTICAL DIFFICULTY VARIANCE**

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5. The granting of a Practical Difficulty Variance will not unreasonably adversely affect the natural environment; and

6. The property is not located in whole or in part within a Shoreland District.

Applicant explanation: Provide, in detail, the facts surrounding this Practical Difficulty Variance request: Be as specific as possible so the Board of Appeals is able to give full consideration to the request:

Continue responses on additional sheets if necessary and attach to this application. Also see Exhibit B for additional submission information.

Property Owner Signature(s) _____ Date _____

_____ Date _____

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APPLICATION FOR DISABILITY VARIANCE

1 of 2

Zoning District(s): _____

Nature of variance: Describe generally the nature of the variance request: _____

Access or Egress: The Board of Appeals may grant a Disability Variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any Disability Variance granted solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

Parking and Storage: The Board of Appeals may grant a Disability Variance to an owner of a dwelling who resides in the dwelling, and who is a person with a permanent disability, for the construction of a place of storage and parking for a noncommercial vehicle (as defined in MRSA §4353) owned by that person and for no other purpose.

The width and length of the garage / parking structure will not be larger than 2 times the width and length of the non-commercial vehicle.

The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent. All medical records submitted to the Board of Appeals and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.

The term "disability" has the same meaning as a physical or mental disability included under Maine Revised Statutes Annotated.

The Board of Appeals may impose conditions on any Disability Variance granted including limiting the Disability Variance to the duration of the disability or to the time that the person with the disability resides in or regularly uses the dwelling.

See the Zoning Ordinance for additional information.

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APPLICATION FOR DISABILITY VARIANCE

2 of 2

In order for a Disability Variance to be granted, the Applicant must satisfactorily demonstrate to the Board of Appeals conformance with all the relevant Disability Variance criteria.

Check one or both:

- ☐ Disability Variance – For access to / egress from a Dwelling (Disability)
- ☐ Disability Variance – For vehicle parking and storage (Permanent Disability)

Applicant explanation: Provide, in detail, the facts surrounding this Disability Variance request: Be as specific as possible so the Board of Appeals is able to give full consideration to the request:

Continue on additional sheets if necessary and attach to this application. Also see Exhibit B for additional submission information.

Property Owner Signature(s) _____ Date _____
_____ Date _____

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APPLICATION FOR
OTHER APPEALS, VARIANCES

Zoning District(s): _____

Nature of appeal or variance: Describe generally the nature of the appeal or variance request:

(Examples: 4.9.1. Road or driveway setback from waterbody requirement; 1.4.5.1. Vacant non-conforming lot standards; 1.4.5.2. Non-conforming lot structure enlargement; 2.3.7. District boundaries; 7.4.10.1. Road in Resource Protection District.....)

Applicant explanation: Provide, in detail, the facts surrounding this appeal or variance request: Be as specific as possible so the Board of Appeals is able to give full consideration to the appeal or variance request:

Continue response on additional sheets if necessary and attach to this application. Also see Exhibit B for additional submission information.

Property Owner Signature(s) _____ Date _____
_____ Date _____

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EXHIBIT A

PERMISSION TO REPRESENT PROPERTY OWNER

Include this form if an agent will represent the deeded property owner.

NAME OF AGENT: _____

COMPANY Name (if applicable) _____

MAILING ADDRESS: _____

CITY OR TOWN: _____ STATE: _____ ZIP: _____

TELEPHONE: _____

EMAIL ADDRESS: _____

Property Owner Signature(s) _____ Date _____

_____ Date _____

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EXHIBIT B

VARIANCE PLOT PLAN(S)
AND ADDITIONAL INFORMATION

All variance applications shall be accompanied by the following additional information unless the Board of Appeals waives these requirements:

1. The completed General Information form of this Application Package.
2. The completed specific variance application form of this Application Package.
3. The completed Exhibit A – Permission To Represent Property Owner (if applicable).
4. Applicable fees.
5. A copy of the deed or other record of right, title or interest in the property.
6. The section of the Ordinance in which the variance request relates to.
7. A Plot Plan(s) of the subject property, to scale, showing:
 - a. Date
 - b. Scale
 - c. North Arrow
 - d. Zoning District(s)
 - e. Road or Street name(s)
 - f. All existing and proposed setback dimensions
 - g. All landscape areas, fencing, and size and type of plant material on the subject property.
 - h. The location of all existing and/or proposed buildings, if any, with dimensions, showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street
 - i. Complete building elevation drawings of any proposed structures
 - j. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed
 - k. Size and shape of the subject property including lot square footage
 - l. The size in square footage of all existing and proposed buildings
 - m. Existing and proposed lot coverage
 - n. Other information, if relevant, including parking, utilities, drainage, etc.

