

TOWN OF TEMPLE ZONING BOARD OF ADJUSTMENT

APPLICATION FOR AN EQUITABLE WAIVER

Revised June 2019

Applicant Name:

When filing for an Equitable Waiver, the applicant must complete the ZBA's General Application Form as well as this specific application.

As the applicant, it is your responsibility to provide evidence that you meet each of the requirements for the type of decision you are requesting. simply stating that the standard is met is not sufficient.

You may want to consult with an attorney or other professional as you prepare your application.

In order for the ZBA to grant an Equitable Waiver of Dimensional Requirements, it must determine that either all four of the Alternative A conditions below are met or that the requirements of Alternative B are met.

After each condition, please explain why you believe that condition has been met.

Note: Instead of the information required by the ZBA under paragraphs 1 through 4 below, the applicant may demonstrate to the satisfaction of the ZBA that the violation has existed for ten (10) years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the Town or any person directly affected.

Alternative A Conditions:

1. 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.
2. 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 Town official in the process of issuing a permit over which that official had authority.

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

4. Due to the extent 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.

Alternative B Conditions:

Instead of the information required under Alternative A, the applicant may demonstrate to the satisfaction of the ZBA that:

1. the violation has existed for ten (10) years or more, and
2. that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the Town or any person directly affected.