INSTRUCTIONS TO APPLICANTS APPEALING TO THE PLYMOUTH ZONING BOARD OF ADJUSTMENT

The Board strongly recommends that you become familiar with the Plymouth Zoning Ordinance before making any application or appeal. The Community Planner is available to assist you, but you are responsible for preparing the application.

For any appeal, the application form 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, this must be explained.
WHERE the property is located.
DESCRIBE the property. Give area, frontage, side and rear lines, slopes and natural features, etc.
WHAT you propose to do. Attach sketches, photographs, plot plans, construction plans, or whatever may help explain the proposed use. Include copies of any prior applications concerning the property.
WHY your proposal requires an appeal to the Board of Adjustment.
WHY the appeal should be granted.
HOW your appeal meets the standards of the Zoning Ordinance.

Prepare a list of all abutting property owners on the attached notification list. You should use the tax records in the Selectmen's Office to help prepare this list. The Town staff will be glad to assist you, however, the accuracy of the list is your responsibility.

Deliver the completed application, with all attachments, no later than 13 days preceding a Zoning Board meeting (held on the first Tuesday of each month) to the office of the Community Planner. An administrative fee of $100 is charged for each application as well as a $5.00 notification fee for each address on the notification list to cover the cost of preparing and mailing the legally required notices.

The Board will schedule a public hearing for the next possible meeting following receipt of your properly-completed application. Public notice of the hearing will be posted in the Town Hall and at Shop 'n Save supermarket and printed in the local newspaper. Notice will also be mailed to you and to all abutters and to other parties whom the Board may deem to have an interest, at least five days before the date of the hearing. You, other parties and the public will be invited to appear in person or by agent or counsel to state reasons why the request should or should not be granted. After the public hearing the Board will make its decision.

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. 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. The motion must be made within 30 days of the Board's decision, and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The Board may grant a rehearing if, in it's opinion, good reason is stated in the motion. The Board will not reopen a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must request one if you intend to appeal to the courts. When a rehearing is held, the person requesting the appeal is responsible for the cost of the required public notice. See RSA 677 for more detail on rehearing and appeal procedures.

Three types of requests may be made to the Board of Adjustment:

APPEAL FROM AN ADMINISTRATIVE DECISION: If you have been denied a land use permit or are affected by some other decision regarding the administration of the 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. If you are appealing an administrative decision, a copy of the decision appealed from must be attached to your application.

SPECIAL EXCEPTION: Certain sections of the Zoning Ordinance provide that a particular use of property in a particular zone will be permitted by special exception if specific conditions are met. Your application for a special exception will be granted if you can show that each of the following conditions contained in section 1004.2 of the Zoning Ordinance are met:

(1) The proposed use(s) shall be only those allowed in this Ordinance by Special Exception.
(2) The specific site is an appropriate location and of adequate size for the use.
(3) The use, as developed, will not adversely affect the character of the area in which the proposed use will be located.
(4) There will be no nuisance or serious hazard to vehicles or pedestrians.
(5) The use will not place excessive or undue burden on Town services and facilities.
(6) There would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be located.

VARIANCE: A variance is an authorization granted under special circumstances to use property in a way that is not permitted under the strict terms of the Zoning Ordinance. A use variance is one which permits a use of land for a purpose that is not allowed by the zoning ordinance. An area variance is one which involves physical or dimensional aspects of the development that are not allowed by 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 granting of the variance will be in harmony with the general purposes and intent of this Ordinance, and with the convenience, welfare, and character of the area within which it is proposed, and will not be injurious or detrimental to the public welfare and that no diminution in value of surrounding properties will occur.
(2) Granting the permit would be of benefit to the public interest.
(3) Denial of the variance would result in unnecessary hardship to the applicant.
    Use variance:
    a) The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment.
    b) No fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restriction on the property.
    c) The variance would not injure the public or private rights of others.
    Area variance:
    a) Special conditions of the property make an area variance necessary in order to allow the applicant to construct the development as designed.
    b) The applicant cannot achieve the same benefit by some other reasonably feasible method that would not impose an undue financial burden.
(4) Granting the variance would do substantial justice.
(5) The spirit of this Ordinance is observed.

If you are applying for a variance, you must first have some form of determination that your proposed use is not permitted without a variance. Most often, this determination is denial of a land use permit. A copy of the determination must be attached to your application.

PLYMOUTH ZONING BOARD OF ADJUSTMENT
APPLICATION FOR APPEAL

Case # _____

Location of property _____

Parcel ID number _____-_____-_____ Zone _____

Purpose of application:
- ❑ Appeal of Administrative Decision
- ❑ Special Exception
- ❑ Variance

Supply all requested information including the notification list. Complete only *ONE* section (1, 2 or 3) as appropriate. This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate sheets if the space provided is inadequate. Include maps, plans, drawings, photographs and anything else that will help explain your request. Material submitted with applications cannot be returned.

A completed application must contain the following items:
- ❑ A completed Application form, relevant sections only
- ❑ Names and addresses of abutters and applicants as indicated in Town records not more than five days prior to filing date. *Names & addresses must be on 2 sets of mailing labels.*
- ❑ Other supporting documents, as necessary
- ❑ Fees:

Application	$100.00
Advertising	$ 60.00
Notification (from page 2)	$_____
Total fees due	$_____

I hereby designate _____ as the representative(s) to whom all communication may be addressed and the person to whom legal process may be served in connection with any proceeding arising out of the agreement herein.

_____ _____
date of application signature of Owner

Owner	Representative/Applicant
name: _____	_____
address: _____	_____
_____	_____
telephone: _____	_____

Application received on: _____ by: _____

Fees received on: _____ by: _____ amount: _____

NOTIFICATION LIST

1. Include the applicant.
2. Include the representative (if different than applicant).
3. Include the owner (if different than applicant).
4. Include all abutters, as indicated on Town records no more than 5 days prior to application date.
5. Include any holders of conservation, preservation or agricultural preservation restrictions.
6. Include all professionals who have stamped the plans.
7. List the owner of more than one parcel only once.
8. **Copy names and addresses onto two sets of mailing labels and submit the labels with the application.**

NAME ADDRESS TAX MAP #

_____
applicant

_____
representative (if different than the applicant)

_____
owner (if different than the applicant)

_____
Professionals who have stamped the plans

_____
Holders of conservation, preservation or agricultural preservation restrictions

_____

_____

_____

_____

_____

_____ Check here if list is continued on back or separate page.

_____ ***Total number of names on this list (including applicant, owner & representative)*** x $5.00 each = $ _____ (see page 1)

Section 1. APPEAL FROM AN ADMINISTRATIVE DECISION

Relating to the interpretation and enforcement of the provisions of the Zoning Ordinance, Article _____ Section _____.

Decision being appealed (attach a copy of the written decision, Land Use Permit, etc.):

_____

_____

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Explanation of appeal _____

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Section 2. APPLICATION FOR A SPECIAL EXCEPTION

A special exception is requested per Article _____ Section _____ of the Zoning Ordinance to permit the property to be used for: _____

_____

(1) Is the proposed use allowed in this Ordinance by special exception? ( ) yes ( ) no

(2) Explain how the specific site is an appropriate location and of adequate size for the use ____

_____

_____

_____

(3) Explain how the use, as developed, will not adversely affect the character of the area in which the proposed use will be located _____

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_____

_____

(4) Explain how there will be no nuisance or serious hazard to vehicles or pedestrians

_____

_____

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(5) Explain how the use will not place excessive or undue burden on Town services and facilities

_____

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(6) Explain how there would be no significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood in which the use would be located __

_____

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_____

Section 3. APPLICATION FOR A USE VARIANCE

A variance is requested from Article _____ Section _____ of the Zoning Ordinance to permit

_____

(1) Explain how the granting of the variance will not diminish the value of surrounding properties _____

_____

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_____

(2) Explain how the granting the permit will not be contrary to the public interest _____

_____

_____

_____

(3) Explain how denial of the variance would result in unnecessary hardship to the applicant. Include why the zoning restriction, as applied to the applicant's property, interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment. Also explain why there is no fair and substantial relationship between the general purposes of the Zoning Ordinance and the specific restriction on the property and how the variance would not injure the public or private rights of others. _____

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(4) Granting the variance would do substantial justice because: _____

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_____

(5) The use will not be contrary to the spirit of this Ordinance because:_____

_____

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_____

Section 4. APPLICATION FOR AN AREA VARIANCE

A variance is requested from Article _____ Section _____ of the Zoning Ordinance to permit

_____

(1) Explain how the granting of the variance will not diminish the value of surrounding properties _____

_____

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_____

(2) Explain how the granting the permit will not be contrary to the public interest _____

_____

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(3) Explain how denial of the variance would result in unnecessary hardship to the applicant because:

(a). The following special conditions of the property make an area variance necessary in order to allow the development as designed _____

_____

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_____

(b). The same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden because

_____

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(4) Granting the variance would do substantial justice because: _____

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(5) The use will not be contrary to the spirit of this Ordinance because:_____

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Section 5. REQUEST FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

An Equitable Waiver of the dimensional requirements contained in Article _____ Section _____ of the Zoning Ordinance is requested to permit _____

_____

to exist in conformance with the provisions of the Zoning Ordinance.

(1) Provide evidence that the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely effect any present or permissible future uses of any such property:

_____

_____

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(2) Provide evidence that due to the degree 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:_____

_____

_____

In addition, either item 3 or items 4a and 4b must be satisfied:

(3) Provide evidence that the violation has existed for 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 municipality or any person directly affected: _____

_____

_____

(4)a Provide evidence that 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: _____

_____

_____

(4)b Provide evidence that 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 municipal official in the process of issuing a permit over which that official had authority: _____

_____

_____

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