



TOWN OF KITTERY
CODE ENFORCEMENT OFFICE
200 ROGERS ROAD, KITTERY, MAINE 03904
PHONE: (207) 475-1305
FAX: (207) 439-6806

Application to the
BOARD OF APPEALS

DATE SUBMITTED	
MAP & LOT	
ASA FEE	
DATE PAID	
DATE COMPLETE	
HEARING DATE	

DISABILITY; VEHICLE STORAGE VARIANCE REQUEST

I have reviewed Town Code Title 16, Board of Appeals By-Laws, and the Ordinance(s) pertinent to this application. My request is based on Section 16.6.4.2B, for a Disability Variance; Vehicle Storage and (30-A MRS. §4353 (4-A)(A)).

**IN ORDER FOR AN APPLICATION TO BE DETERMINED COMPLETE AND SCHEDULED FOR A PUBLIC HEARING:
APPLICATIONS FORMS MUST BE COMPLETE; 10 SETS OF DOCUMENTATION PROVIDED; & ALL FEE(S) PAID**

PROPERTY INFORMATION

ADDRESS					
MAP		LOT #		LOT SIZE	
BASE ZONE(S):			OVERLAY ZONE(S):		
The subject property: [is / is not] in a Shoreland overlay or Resource Protection zone; [is / is not] in a floodplain; AND [does / does not] have outstanding code violations; and, if so, granting this appeal provides resolution .					
PROPERTY OWNER: I have right, title or interest in the affected property, or issue, as shown by:					
NAME(S)					
MAILING ADDRESS					
CITY		STATE		ZIP CODE	
PHONE No.			e-MAIL:		

NOTE: You may have an attorney represent you, but such representation is not necessary. You may also be represented by a designated agent (e.g. family member, neighbor, engineer, contractor) as you so desire.

APPLICANT (if different) I am an agent of the applicant with standing, as shown by:

NAME(S)					
MAILING ADDRESS					
CITY		STATE		ZIP CODE	
PHONE No.			e-MAIL:		

Please answer the following questions to explain why you believe that the subject property meets each of the following criteria for this variance and attach supporting documents as proof, where applicable:

- a. Are you the owner of the dwelling where the construction will occur? YES ☐ NO ☐
- b. Do you reside in the dwelling? YES ☐ NO ☐
- c. Do you have a permanent disability? YES ☐ NO ☐
- d. What is the nature of your disability? _____
- e. Is the vehicle to be parked in the proposed structure owned by the owner of the dwelling? YES ☐ NO ☐
- f. Will the proposed construction be used for any other purpose than to store the vehicle? YES ☐ NO ☐
- g. Is the vehicle a "noncommercial vehicle" as defined in 30-A MRS §4353 (4-A)? YES ☐ NO ☐
- h. What are the dimensions of the proposed structure and where will it be located on the property?

To the best of my knowledge, all information submitted on and with this application is true and correct.

Date: _____

By: _____

(Signature)

(Print Name)

DISABILITY VARIANCE; VEHICLE STORAGE CRITERIA (SEE SECTION 16.6.4.2B)

B. Notwithstanding Section 16.6.4.2A, the Board of Appeals may grant a variance to an owner of a residential 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 must restrict any variance granted under this subsection 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 Board of Appeals may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" includes railing, wall or roof systems necessary for the safety or effectiveness of the structure.

"Disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A. "Noncommercial vehicle" means a motor vehicle as defined in Title 29-A § 101(42) with a gross weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to Title 29-A, § 521 and owned by the person with the permanent disability.

The Board may grant a 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 shall restrict any 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; and

The Board may impose conditions on the variance granted, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. 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; and

The Board may grant a 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 owned by that person and no other purpose.

I UNDERSTAND THAT THE BOARD OF APPEALS:

- ☐ May hear and decide on a variance request within the limitations set forth in Title 16, Section 6.4.2B, Variance Request, and 30-A MRS §4353(4).
 - ☐ Appears to have jurisdiction to hear this request; hearing must be held within 30 days of this request filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.
 - ☐ Will conduct this hearing De Novo (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with this Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).
 - ☐ Will determine my Burden of Proof:
 - 1) What does the ordinance/statute require the applicant to prove?
 - 2) Does the ordinance/statute prohibit or limit the type of use being proposed?
 - 3) What factors must be considered under ordinance/statutes to decide whether to grant the request?
 - 4) Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?
 - ☐ Requires substantial evidence as the Standard of Review for this request, meaning:

"More than a mere scintilla". It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The preponderance of evidence standard is met if the proposition is more likely to be true than not true. The standard is satisfied if there is greater than fifty percent chance that the proposition is true.
 - ☐ May hear, decide, and approve variations in accordance with the criteria listed in Town Code Title 16, Sections 6.6.1, Factors, and 6.6.2, Considerations; and may consider other Title 16 standards.
 - ☐ Approval may not be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the Town is responsible for enforcing.
 - ☐ Is only legally authorized to deal with issues arising from the list above, and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.
 - ☐ Will not even hear my appeal unless I can show that I have "standing" to have my request heard.
 - ☐ Purpose of establishing my case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.
 - ☐ Will try to decide my case based only on the factual information presented and what is written in the pertinent Town ordinance/regulation, State statute(s)/regulation(s) and the rulings of the State Supreme Judicial Court.
 - ☐ Tries to make decisions it believes would be upheld if appealed to Superior Court.
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1. a relaxation of the terms of Title 16 where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant or prior owner, a literal enforcement of the title will result in unnecessary or undue hardship.

Describe the general nature of the disability variance request:

This image shows a full page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, typical of notebook paper. There are no margins, text, or other markings on the page.

The goal is to provide building and use standards that apply to all properties equally within a given zone. Getting an exception or variance to standards is purposely difficult because granting variances to the standards would diminish the value of in protecting neighboring properties. It is important that you respond completely to the requests below:

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