APPLICATION FOR EQITABLE WAIVER OF DIMENSIONAL REQUIREMENTS
TOWN OF SWANZEY (Revised 8/22)

DATE: **MAP:** **LOT:**

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
Contact phone number:	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
LOCATION OF PROPERTY (Give Zoning District in which located & current street address)	

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☐ **SITE PLAN –** 11"X17" (need not be done professionally, but should be to scale of 1/8" to the foot for structures, 1" to 20' for land area); indicate the size of the lot in acres or square feet, placement of ALL **EXISTING** and **PROPOSED** buildings on the lot, INCLUDE SETBACKS REQUIRED BY ZONING ORDINANCE.

2. ☐ If applicable, indicate on the Site Plan the location of:

- Septic system and/or leach field
- Water supply
- Curb cuts
- Parking area (and size of each parking space)
- Waterways
- Wetland areas
- Tree lines
- Drainage ways
- Loading docks
- Underground tank locations
- Impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☐ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☐ Provide a brief description of the project/request.

An Equitable Waiver of Dimensional Requirement is required when a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16. The Zoning Board of Adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the Board makes all of the following findings:

a. Does the request involve a dimensional requirement, not a use restriction?
☐ yes ☐ no

b. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the Town:

- or –
Explain how the nonconformity was discovered after the structure was substantially completed:

- or –
After a vacant lot in violation had been transferred to a bona fide purchaser:

- and –
How the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake.

c. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area:

d. Explain how the cost of correction far outweighs any public benefit to be gained:

_____ Date:_____
Signature of Applicant

_____ Date:_____
Signature of Property Owner

DATE: **THIS EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENT IS HEREBY:**

_____☐_____**GRANTED** _____☐_____**DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

SIGNATURE (Chairman) SIGNATURE (Member) SIGNATURE (Member)

REMARKS:

ZBA CHECKLIST FOR A REQUEST FOR AN EUQITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

Is the application a request for an EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS?

Does the request involve a dimensional requirement, not a use restriction?

If the answer is YES, the board can move on to specific findings to grant the waiver:

Has the violation existed for 10 years or more with no enforcement action, including written notice, commenced by the town?

- or –

Was the nonconformity discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser?

- and –

Was the violation not an outcome of ignorance of the law or bad faith but the result of a legitimate mistake?

If the answer is yes, the Board can move on to the additional finidngs to grant the waiver:

- Does the nonconformity not constitute a nuisance or diminish the value or interfere with future uses of other property in the area?

- Would the cost of correction far outweigh any public benefit to be gained?

If the answer to each of the above is YES, the Board shall grant an equitable waiver.