

Town of Poland, Maine  
Board of Appeals  
1231 Maine Street  
Poland, ME 04274  
(207) 998 - 4601

## Application for Variance Appeal

|                        |             |                   |                 |
|------------------------|-------------|-------------------|-----------------|
| Appellant(s): _____    |             |                   |                 |
| Mailing Address: _____ |             | Work Phone: _____ |                 |
| Town/State/Zip: _____  |             | Home Phone: _____ |                 |
| Road Location: _____   | Map # _____ | Lot # _____       | Sub-lot # _____ |

A Variance Appeal is being sought for the relaxation of the Comprehensive Land use Code (CLUC). I/we believe that this would not be contrary to the public interest and a literal enforcement of this Code would result in undue hardship.

Indicate the section(s) of the ordinance that you believe is/are relevant to your appeal:

Chapter \_\_\_\_\_, Section \_\_\_\_\_, Page \_\_\_\_\_ | Chapter \_\_\_\_\_, Section \_\_\_\_\_, Page \_\_\_\_\_

Chapter \_\_\_\_\_, Section \_\_\_\_\_, Page \_\_\_\_\_ | Chapter \_\_\_\_\_, Section \_\_\_\_\_, Page \_\_\_\_\_

1. Attach a statement detailing the facts concerning your appeal. (see attached pages)
2. Attach copy of deed, sales agreement, or contract that gives you right, title, or interest in this appeal.
3. Attach a copy of a sketch plan of the property showing lot dimensions and shape, existing structures, setbacks, natural features on the lot, and indicate the area of proposed location of structures.
4. Attach a copy of any other relevant papers (applications, Planning Board and/or CEO decisions, etc.) concerning this appeal.
5. Optional – attach photos of the area.
6. A total of at least eight (8) copies of the appeal packet and one electronic PDF copy (on either USB drive or cd) are needed. Be sure to retain a copy for yourself.

***I hereby acknowledge that I have read this application and pertinent sections of the ordinances and state that the information in this document is to the best of my knowledge true and accurate.***

Appellant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Appellant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Detailed Description:** In order for a variance to be granted the Appellant must demonstrate to the Board of Appeals (BoA) that the strict application of the CLUC would cause undue hardship. The code section shown below lists the criteria the must be met before the BoA can find that a hardship exists. In your statement detailing the facts, please include numbered comments addressing each of the relevant subsections.

## **§ 304.2.B.2**

B. Powers and Duties - For all actions taken by the Board of Appeals, a concurring vote of at least three (3) members of the board is required to approve a motion.

2. Variance Appeals - To hear and decide upon appeal in specific cases where a relaxation of the terms of this Code would not be contrary to the public interest and a literal enforcement of this Code would result in undue hardship.
  - a. Dimensional variances may be granted only from dimensional requirements including but not limited to frontage (including shore frontage), lot area, lot width, height, percent of lot coverage, impervious surfaces and setback requirements.
  - b. Variances shall not be granted for establishment of any prohibited use.
  - c. The Board shall not grant a variance in the Shoreland Area unless it finds that:
    - (1) The proposed structure or use would meet the performance standards of this Code except for the specific provision which has created the nonconformity and from which relief is sought; and
    - (2) The applicant has proved to the Board that strict application of the terms of this Code would result in undue hardship.

To prove "undue hardship" the applicant must prove all of the following:

- (a) That the land in question cannot yield a reasonable return unless a variance is granted;
    - (b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - (c) That the granting of a variance will not alter the essential character of the locality; and
    - (d) That the hardship is not the result of action taken by the applicant or a prior owner.
- d. The Board shall not grant a variance in locations outside the Shoreland Area and one hundred (100) year floodplain unless it finds that:
  - (1) The proposed structure or use would meet the performance standards of this Code except for the specific provision which has created the nonconformity and from which relief is sought; and
  - (2) The strict application of this Code to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:
    - (a) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

- (b) That the granting of the 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;
  - (c) That the practical difficulty is not the result of action taken by the petitioner or a prior owner;
  - (d) No other feasible alternative to a variance is available to the petitioner;
  - (e) That the granting of the variance will not unreasonably adversely affect the natural environment; and
  - (f) That the structure or land area for which a variance is sought is not located in whole or in part within the Shoreland Area and/or one hundred (100) year flood plain.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Code to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance and all subsequent owners or occupants shall comply with any conditions imposed.
- f. For any variance granted, a Certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting shall be prepared in recordable form. The applicant shall record this Certificate in the Androscoggin County Registry of Deeds within ninety (90) days of the date of final written approval. The variance is not valid until recorded and no permit shall be issued by the Code Enforcement Officer until proof of recording is provided.
- g. Variance Appeals Shoreland Areas
  - (1) A copy of each variance request within the Shoreland Area, including the application and all supporting information supplied by the applicant shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
  - (2) For any variance granted by the Board of Appeals in the Shoreland Area it shall be submitted within fourteen (14) days of the final written decision to the Department of Environmental Protection by the Board of Appeals.
- h. A variance under the provision of this Chapter secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one (1) year of the date on which the variance is granted, and it work or change is not substantially completed within two (2) years.
- i. Prior to the start of any construction for which a variance has been granted, a permit is required from the Code Enforcement Officer.
- 3. Variance Appeals in Floodplains - In addition to the provisions of Section 304.2 above, variance appeals from the provisions of Chapter 7, Floodplain Management Standards, shall comply with the following.
  - a. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Variances shall be granted only upon:

- (1) A showing of good and sufficient cause; and
  - (2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with this code, existing local laws, ordinances or regulations; and
  - (3) A showing that the issuance of the variance will not conflict with this code or other federal, state, or local laws, ordinances or regulations; and
  - (4) A determination that failure to grant the variance would result in undue hardship as defined in section 304.2.b.(2).(c).
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- d. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
- (1) Other criteria of this Section and Chapter 707.11 are met; and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- e. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
- (1) The development meets the criteria of Section 304.2.B.3, paragraphs a. through d., above; and
  - (2) The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.