

APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS
BOARD OF ADJUSTMENT
PO Box 268, Jackson, N.H. 03846

Revised July 19, 2006

Do not write in space below:

Case No. _____ Date Filed _____

ZBA Signature _____ Public Hearing _____

Decision _____

Applicant Signature Brian Post Date 11/21/13

TAX LOT NUMBER; 32 Map V05

Name of applicant Brian Post

Address PO Box 174 Jackson NH 03846

Owner same
(If same as applicant, write same)

Location of property 14 Deer Run Jackson NH 03846
(street, number, sub-division)

Acres 0.98 or Sq. Ft. _____

An Equitable Waiver of Dimensional Requirements is requested from section 431.2 of the Zoning Ordinance to permit construction of a residential house that encroaches into the 25' buffer setback. This encroachment has been measured at 0.77 feet plus 1.5 foot house eaves.

1. Does the request involve a dimensional requirement, not a use restriction? YES NO

2. 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 The non conformity was discovered upon receipt of the as built septic plan, at which point the main structure of the house was already completed. This includes foundation, walls, roof, windows, and doors.

This is my first home building experience. I was aware of the 25' setback and planned the house to be within the approved building area, but slight mistakes in measurement caused the non conformity.

(Equitable Wavier page 2)

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

The nonconformity does not affect 2 out of the 3 abutters. I believe that the non conformity is at a small size (10" for the building plus 18" eaves) that will not de-value or interfere with the affected abutter.

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

The cost and risk of moving a completed home structure would far outweigh the benefit of moving the house 2.5 feet.

Is any Use or Structure on the subject property (other than that referenced above) currently Non-Conforming?

YES NO

If yes, explain in detail:

Does the subject property including all existing or proposed buildings, signs, driveways, and septic systems meet Jackson Zoning Ordinance requirements and applicable state regulations? YES NO

If no, explain in detail:

ADDITIONAL INFORMATION: Summarize below any information from preliminary discussions with state agency personnel in regard to the case. In addition, attach copies of any correspondence from state agencies, or Jackson officials and boards pertaining to the property.

This non conformity has not been discussed with state agency personnel as it is a town zoning issue.

Jackson Zoning Ordinance Section 15.2.4 states - Waivers shall be granted only from physical layout, mathematical or dimensional requirements. An equitable waiver shall not be construed as a Non-Conforming Use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the Zoning Ordinance. This Section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them.

Attach all pertinent documents and correspondence.

NOTE: This application is not acceptable unless all required statements have been made.

Use additional attachments or separate sheet to provide answers to questions not already covered, if the space provided is inadequate.

IMPORTANT NOTICE: Board of Adjustment By-Laws state that information from the applicant and/or his representatives must be provided to the Board no less than 7 calendar days prior to the date of the public hearing.

If you have questions about this application, please review the application instructions and checklist and the ZBA information found on www.jacksonvillage.net under Boards and Commissions. In addition, you may contact the Chairman of the Board of Adjustment, PO Box 268, Jackson, NH 03846

Equitable Waiver of Dimensional Requirements

for

Brian Post - Tax map V05 Lot 32

In September of 2012, I purchased this lot and had a septic design created (and approved) as part of the closing. The building footprint was located near the back of the lot due to optimal septic design.

In late fall of 2012, I measured from the septic design benchmarks to mark out a rough outline of the building footprint in order to start clearing trees. Over the winter of 2012-2013; my wife, Kyra Salancy, and I planned our house build and decided to act as general contractors. In July of 2013, major excavation was done for a rough driveway and to prep for the foundation. The foundation was poured in late August 2013. Throughout each of these steps, we continued to use the septic design benchmarks to locate the building footprint corners.

In early November 2013, the septic installation was completed and we had our septic designers create an "as built" septic plan to reflect a changed septic tank location. We were notified on November 13, 2013 that the "as built" plan was ready and that the house footprint was 2-3' off its intended location. This means that the back northeast corner of the house is now 0.79' into the 25' setback. When you take the 1.5' eaves into account, the encroachment is just under 2.5'.

During the construction process, we have been paying attention to ordinances and codes along with our goal of building a quality energy efficient house. The nonconformity was a mistake that I believe happened because of slight measurement mistakes (that added up to just under 2.5') during the various steps of locating and orienting the house footprint. We were not aware of this nonconformity until notification by our septic designers on November 13, 2013.

Because of the small amount of the nonconformity (0.79' house corner plus 1.5' roof eaves), I don't believe it poses a public/private nuisance or diminishes the value of the surrounding properties. The cost/risk of moving a completed house structure 2.5' would far outweigh benefits to this move.

We believe this waiver should be granted as it meets the required standards. Completion of this house without further delays or financial hardships will be beneficial to us and the town of Jackson.

The enclosed "as built" septic plan includes the intended (lighter box) and current (darker box) house footprint. Please let me know if you have any questions and thank you for reviewing the application.

Sincerely,

Brian Post