



BAR HARBOR BOARD OF APPEALS
APPLICATION FOR ADMINISTRATIVE APPEAL
(as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

APPLICATION # _____ **DATE** _____

FEE \$ _____ **MAP** _____ **LOT** _____

APPLICANT :

Name _____

Address _____

Telephone _____

Email _____

OWNER :

Name _____

Address _____

Telephone _____

Email _____

PROJECT REPRESENTATIVES:

Name _____

Address _____

Telephone _____

Email _____



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SUBJECT PROPERTY

Physical Location _____

Zoning District _____

Tax Map and Lot Number _____

Please state the basis for your contention that you are an aggrieved party as defined in §125-109 of the Bar Harbor Land Use Ordinance:

Decision maker being appealed:

- Code Enforcement Officer
- Planning Board
- Harbormaster
- Public Works Director
- Other (specify) _____



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Grounds for action being appealed:

- Failure to approve or deny an application within the time limits of the Bar Harbor Land Use Ordinance
- Denial of approval based on a misinterpretation or misapplication of the Bar Harbor Land Use Ordinance
- Granting of approval based on a misinterpretation of or misapplication of the Bar Harbor Land Use Ordinance
- Factual findings clearing unsupported by evidence
- Other (please specify) _____

Please state the specific decision you are appealing (attach copy) and the action you are requesting from the Board of Appeals:

Please state the provisions of the Bar Harbor Land Use Ordinance at issue with specific references to the applicable sections of the LUO:

Please state any time limits with which the Code Enforcement Officer or Planning Board has not complied, citing the applicable section of the LUO and dates:



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Please clearly state the specific manner in which you believe the Bar Harbor Land Use Ordinance has been misinterpreted or misapplied and include specific references to the applicable sections of the LUO (use additional sheets if necessary):

Please list every factual finding made by the Code Enforcement Officer or Planning Board that you believe to be unsupported by the evidence presented to that decision-maker and state clearly for each of the basis of your contention that each finding was unsupported by evidence (use additional pages if necessary):

Please set forth and other facts, laws or ordinance references that you believe support your appeal (attach additional sheets if necessary):



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Please attach the following:

- Your deed or other evidence of interest in the property and a letter of authorization signed by the owner of record permitting the application be made by and/or represented by another party;
- Copy of the decision you are contesting and copies of any written findings issued by the Planning Board, Design Review Board, or Code Enforcement Officer;
- All relevant submissions previously presented to the municipal officer or body whose decision whose decision is being appealed;
- A transcript of all proceedings before Planning Board or Design Review relevant to this appeal;
- Any other materials you believe will be of assistance to the Board of Appeals in rendering a decision;
- List of property owners within 300 feet of the subject property (to be provided by the Planning Department).

Submit 12 copies of the complete application with the supporting materials to the Planning Department. Applications and submissions must comply with §125-103 of the LUO. Please refer specifically to §125-103.C for provisions related to submissions.

CERTIFICATION:

This application and all information submitted herewith are true and correct to the best of my knowledge.

Applicant

Date

Bar Harbor Board of Appeals

Rules of Procedure

Authority.

These Rules of Procedure are regulations adopted by the Bar Harbor Board of Appeals pursuant to 30-A MRSA § 3(C) and Bar Harbor Land Use Ordinance ("LUO") §125-103 (D)(1)(g). The Chair may waive any regulation in the Rules of Procedure upon good cause shown to the extent allowed by law.

Receipt of Documents.

The applicant will prepare and provide to the Planning Director 10 copies of the full application in binders with tabs, together with two copies of all large-format exhibits. Staff will date stamp all pages of each exhibit of the secure file copy "Received," so that we can later determine the last submitted version. Documents submitted by the appellee or other interested parties shall be treated similarly.

Submittal Deadlines.

By the appellant. To be placed on the agenda for the Board of Appeals, all application materials to be considered by the Board must be submitted by noon, 20 days prior to the meeting at which it is to be heard, (LUO §103 (C)(1)(a)). This deadline shall apply to all applications including:

- Requests for Variances,
- Administrative Appeals,
- Relocation of Nonconforming Structures,
- Change of Nonconforming Use,
- Relocation of a Nonconforming Use, and
- Change of Nonconforming Use in a Shoreland District.

A complete application shall include the following: 1) an official application form provided by the Planning Department, 2) any supporting materials required by the Land Use Ordinance, and 3) any other materials the appellant wishes to submit in support of the appeal. In no case shall an application be placed on the agenda without all the application materials required by the Land Use Ordinance. Space on an agenda may not be reserved by telephone call, letter, or partial submission. New applications will be placed on the agenda on a first-come first-served basis.

As an exception to the 20-day deadline, a request for Reconsideration shall be subject to the timelines and requirements of Section 125-106.

By appellee and other interested parties. Pursuant to LUO §125-103 (C)(1)(b) and §125-103 (C)(2)(b), the appellee and other interested parties must file 12 copies of their documents with the Planning Director no later than seven days prior to the public hearing.

By staff. Submittals by staff pursuant to LUO § 125-103 (D)(1)(j) are not subject to deadlines and may be submitted at any time.

decision. Board members may deliberate on the substantive merits of the decision only at an open, public Board meeting. Board members may, however, point out typographical and grammatical errors in the decision and may indicate whether that Board member would like to schedule an open meeting to deliberate the merits of the written decision. Such request may be made in an email to the Planning Department. If a Board Member requests a meeting to discuss the substantive merits of the written decision, the Chair shall call such a meeting. The Chair may, also, on her/his own initiative schedule a special meeting to deliberate on the substantive merits of the written decision. If no meeting is called for and the Chair sees no reason to hold such a meeting, the Chair may sign the written decision on behalf of the Board. Whether or not there is a meeting to deliberate the written decision, a final version of the decision should be available to the appellant within ten working days following the Board meeting at which the decision was formed.

Requests for Reconsideration.

Applicant Request. Requests for reconsideration must be filed in writing within ten days of the Board's vote on the final decision. The written request for reconsideration must clearly explain both the grounds for reconsideration and why those grounds could not have been brought to the Board's attention during the hearing. Acceptable grounds for reconsideration are: 1) In appeals by evidentiary hearing, newly discovered evidence that could not have been discovered with due diligence before the evidentiary hearing; 2) recent changes in the law, such as statutory amendments or new case law that was unknown to the Board and the parties at the time of an appellate review or evidentiary hearing. Restating arguments or positions that were raised in the hearing but rejected by the Board does not constitute grounds for a reconsideration. If the request for reconsideration does not comply with the above requirements, the Chair may dismiss it without further hearing. If the request for reconsideration complies with the above requirements, the Board shall meet within 15 days to decide whether to reconsider its prior decision. If the Board decides to reconsider its prior decision, it shall set forth the procedures to be followed during the reconsideration.

Board Member Request. Any Board member who voted in the majority on the final decision may ask for a reconsideration of this decision. This request must be made to the Chair within two days of the original decision. This request will be granted automatically. A special meeting to reconsider will be scheduled no later than a week after the request. The Planning Department will notify all interested parties of the special meeting.

Public Review

It is very important for the public to be able to review pending Board of Appeals applications. Accordingly, the following procedure is established:

1. A full copy of one of the application binders, along with any large-format exhibits will be available to the general public for review in the Planning Department.
2. The other application binder and one copy of any large-format exhibits will be maintained in a secure file to which only staff has access. Members of the public wishing to review the secure copy must file a citizen's "right to know law" request as provided by state law and will be supervised by staff as they review the file. A record of public access requests granted will be maintained in the file.