

**APPLICATION for APPEAL**

Town of Southwest Harbor  
Board of Appeals

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**Applicant:**

NAME \_\_\_\_\_, MAILING ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ TEL: \_\_\_\_\_

E-MAIL: \_\_\_\_\_, CEL PHONE: \_\_\_\_\_

**Agent:** (if applicable)

NAME: \_\_\_\_\_, MAILING ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ TEL: \_\_\_\_\_

E-MAIL: \_\_\_\_\_, CEL PHONE: \_\_\_\_\_

RELATIONSHIP TO APPLICANT: \_\_\_\_\_

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Please complete this application in its entirety. You may add other information as may be needed to adequately describe the purpose of seeking relief from the Southwest Harbor Board of Appeals (BOA). If you need assistance for any unanswered questions, please feel free to contact:

- Code Enforcement Officer       Chairman or Member, Board of Appeals       Tax Assessor

The following has been completed and attached, including section for relief (page 3.1 thru 3.5):

- |   |   |
|---|---|
| <input type="checkbox"/> Statement of <u>Problem</u> , Page 2   | <input type="checkbox"/> Administrative Appeal, Page 3.1      |
| <input type="checkbox"/> Specific Request, Page 3.1-5 .....   | <input type="checkbox"/> Variance, LUO only, Page 3.2         |
| <input type="checkbox"/> Standing, Page 4   | <input type="checkbox"/> Setback Variance, LUO, Page 3.3      |
|   | <input type="checkbox"/> Disability Variance, LUO, Page 3.4   |
|   | <input type="checkbox"/> Permit Life Extension, LUO, Page 3.5 |
| <input type="checkbox"/> List of Abutters, Page 5 (land use ordinance, road opening & special amusement)  |   |
| <input type="checkbox"/> Copy of receipt-of-payment, Administrative Fee (\$40.00) to cover notice to abutters and public notice in a local publication. |   |

APPLICANTS SIGNATURE \_\_\_\_\_, DATED \_\_\_\_\_

AGENT SIGNATURE (if applicable) \_\_\_\_\_, DATED \_\_\_\_\_

**APPLICATION for APPEAL**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I wish to appeal to the Southwest Harbor Board of Appeals because I have a problem which is in regard to a matter of: **(PLEASE CHECK ONLY ONE)**

**LAND USE**

**NON-LAND USE**

- Land Use Ordinance
- Road Opening Permit Ordinance
- Road Ordinance
- Subdivision Ordinance
- Flood Plain Management Ordinance

- General Assistance Ordinance
- Harbor Ordinance
- Property Tax Abatement
- Special Amusement Permit Ordinance
- State Plumbing Code
- Town Personnel Rules/Regulations
- Warning Sign Request Policy

And further, **I understand** that:

- ◆ The role of the BOA is to examine and resolve problems between the Town of Southwest Harbor and those affected by its ordinances, decisions or lack of action by the Town; and
- ◆ The only issues the BOA is legally authorized to deal with are those arising from the list above, and do not include such matters as constitutionality, civil rights criminal acts, property disputes, surliness, etc.; and
- ◆ The BOA will not even hear my appeal unless I can show that I have “standing” (see page four) to have my complaint heard; and
- ◆ The BOA 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 rulings of the State Supreme Judicial Court; and
- ◆ The BOA tries to make decisions it believes would be upheld if appealed to Superior Court; and
- ◆ The local appeals process must be exercised and exhausted before the Superior Court will hear these cases; and
- ◆ Compliance with BOA decisions is voluntary by all parties, compulsion requires a court order.

**APPLICATION for APPEAL**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I understand that the purpose of establishing my case for **Standing** is to limit appeals or an issue to those who are directly involved and/or affected.

I have right, title or interest in the affected property, or issue, as shown by \_\_\_\_\_

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Unlike others in the community, I will suffer a particularized injury in this matter if not resolved in my favor. I am adversely and directly affected by:

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I have participated in the proceedings which led to this appeal as shown by the following documentation and or witnesses:

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**APPLICATION for APPEAL**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I am providing this up-to-date and complete **LIST OF ABUTTERS** to the property identified as the subject of this appeal, and further, I understand that:

- ◆ Although I am technically responsible for the notification of the abutters, the Town of Southwest Harbor will execute notification to those listed below (to ensure consistency and timeliness of procedure); and
- ◆ Failure to notify the present-day owner of each and every abutting lot may invalidate the decision of the Board of Appeals in this matter; and
- ◆ Map and lot number, book and page numbers as recorded in the Registry of Deeds, names and addresses of abutters are available in the commitment book, assessors office.

NAME:	MAP:	LOT:	BOOK:	PAGE:
ADDRESS	CITY	STATE	ZIP CODE	

  

NAME:	MAP:	LOT:	BOOK:	PAGE:
ADDRESS	CITY	STATE	ZIP CODE	

  

NAME:	MAP:	LOT:	BOOK:	PAGE:
ADDRESS	CITY	STATE	ZIP CODE	

  

NAME:	MAP:	LOT:	BOOK:	PAGE:
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ADDRESS	CITY	STATE	ZIP CODE	

  

NAME:	MAP:	LOT:	BOOK:	PAGE:
ADDRESS	CITY	STATE	ZIP CODE	

**ADMINISTRATIVE APPEAL APPLICATION (3.1)**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I hereby request from the Southwest Harbor Board of Appeals to consider an

**ADMINISTRATIVE APPEAL**

as I contest the interpretation or application of the ordinance / regulation, and I seek relief from the:  
(CHECK ONLY ONE)

DECISION

LACK OF ACTION

of the following board or individual: (CHECK ONLY ONE)

Planning Board

Town Manager

Code Enforcement Officer

Tax Assessor

Board of Selectmen

Road Foreman

The decision/lack of action I object to is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I object for the following reason(s) [Supported with citations(s), of pertinent ordinance(s), deeds, maps, documents, etc.] :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(USE BACK OF THIS PAGE OR ADDITIONAL SHEET AS NECESSARY)

APPLICANT/AGENT SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

**VARIANCE APPLICATION, Land Use Ordinance (3.2)**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I hereby request from the Southwest Harbor Board of Appeals to consider an

**APPEAL FOR VARIANCE**

which is applicable to a land use ordinance.

In requesting this variance, I understand that:

- ◆ The Planning Board must have reviewed my project permit application and rendered a decision other than 'approved'; and
- ◆ I am agreeing that my project does not conform to the ordinance; and
- ◆ I must show that without a variance, undue hardship would be imposed on any owner or the property, not just the present owner; and
- ◆ I must satisfy the legal test for undue hardship by showing that:
  - A. Without a variance, this property has lost all, or most all of its value, and
  - B. This property is affected by the ordinance in ways that neighboring properties are not, and
  - C. Granting of a variance will not alter the essential character of the locality, and
  - D. The loss of value does not result from my actions or those of a prior owners.

Property Identification: Map \_\_\_\_\_, Lot \_\_\_\_\_ Book \_\_\_\_\_, Page \_\_\_\_\_

Owner of record: \_\_\_\_\_

Necessity for Variance: The proposed project is non-conforming in the following ways:

\_\_\_\_\_  
\_\_\_\_\_

Justification for Variance: The four point legal test for undue hardship can be satisfied as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(USE BACK OF THIS PAGE OR ATTACH ADDITIONAL SHEETS AS NECESSARY)

APPLICANT/AGENT SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

**PERMIT LIFE EXTENSION, Land Use Ordinance (3.5)**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I hereby request from the Southwest Harbor Board of Appeals to consider a

**PERMIT LIFE EXTENSION**

as provided by the land use ordinance, Sec IX, B.4.

This appeal is to extend, for one year, the following permit:

Permit Number \_\_\_\_\_ Permit Date \_\_\_\_\_

This will be  First  Second, such extension

Property Identification: Map \_\_\_\_\_, Lot \_\_\_\_\_ Book: \_\_\_\_\_, Page \_\_\_\_\_

Owner of record \_\_\_\_\_

This extension is required because: (check only one box)

To complete the project already begun. The progress to date is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Because progress has been prevented by reasons beyond my control. The reasons are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPLICANT/AGENT SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

**DISABILITY VARIANCE APPLICATION, Land Use Ordinance (3.4)**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I hereby request from the Southwest Harbor Board of Appeals to consider a

**DISABILITY VARIANCE**

as provided by Title 30-A, M R S A §4353, §§4-A

I need to make my property accessible to a disabled resident of my property. The Land Use Ordinance Prevents construction of any reasonable access to the structure. My application for a permit has been duly processed and the decision of the Planning Board or Code Enforcement Officer has been other than "approved".

Property Identification: Map\_\_\_\_\_, Lot\_\_\_\_\_ Book:\_\_\_\_\_, Page\_\_\_\_\_

Owner of record \_\_\_\_\_

Name (s) of person (s) disabled: \_\_\_\_\_

Description of Disability: \_\_\_\_\_

I expect this disability to last approximately: \_\_\_\_\_Months \_\_\_\_\_Years

In requesting this disability variance, I understand that:

- ◆ Such a variance applies solely to the installation or equipment or structure necessary for Access to and from the property by the disabled person; and
- ◆ The equipment or structure, permitted by a disability variance, must be removed when there no longer is a disabled person living on the premises; and
- ◆ The granting of this variance must be recorded with the Registry of Deeds in Ellsworth; and
- ◆ If or when the lot or use ceases to be a single family residence, the setback reduction by this variance will be rescinded.

APPLICANT/AGENT SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_



**SETBACK VARIANCE APPLICATION, Land Use Ordinance (3.3)**

NAME OF APPLICANT \_\_\_\_\_, DATE: \_\_\_\_\_

I hereby request from the Southwest Harbor Board of Appeals to consider an

**APPEAL FOR SETBACK VARIANCE**

as provided by Title 30-A, M R S A §4353, §§4-B. In requesting this variance, I understand that:

- ◆ The dwelling for which the variance being sought is my primary year-round residence
- ◆ The request for a setback variance does not exceed 20% of a required setback
- ◆ The variance will not allow any encroachment to the water
- ◆ The variance will not cause the area of the dwelling to exceed the maximum permissible lot coverage.

◆ The following legal test for undue hardship is explained:

A. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood:

\_\_\_\_\_

B. The granting of a variance will not alter the essential character of the locality:

\_\_\_\_\_

C. The hardship is not the result of action taken by the applicant or a prior owner:

\_\_\_\_\_

D. The granting of the variance will not substantially reduce or impair the use of the abutting property:

\_\_\_\_\_

E. The granting of the variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

\_\_\_\_\_

Property Identification: Map \_\_\_\_\_, Lot \_\_\_\_\_ Book \_\_\_\_\_, Page \_\_\_\_\_

APPLICANT/AGENT SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_