

APPLICATION FOR A VARIANCE

To: Board of Adjustment, Town of Gorham

Name of Applicant Four Wheeler Holdings, LLC

Address 149 State Street, Groveton, NH 03582

Owner same, but c/o Joel Wheeler/Larry Meservey Member/Manager
(if same as applicant, write "same")

Location of Property 477 Main Street, ID 48 R5 Lot 2
(street, number, sub-division and lot number)

Do not write in this space.
Case No. 02-2023
Date Filed 12/28/22

(signed - ZBA)

NOTE: This application is not acceptable unless all required statements have been made.
Additional information may be supplied on separate pages if the space provided is inadequate.

APPLICATION FOR A VARIANCE

A variance is requested from Article IV Section 4.04, D, 2 of the zoning ordinance to permit the existing building, to be located fifteen (15) feet from the front set back, rather than the twenty (20) foot set back requirement.

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public **interest** because:

The use is not changing; the use is consistent with the properties in the area; the use is consistent with the zoning ordinance; and it will have no adverse effect on the abutter's or public's health, safety or welfare.

Further, it is noted that this is a pre-existing building that was constructed over 34 years ago, and the encroachment has not been an issue.

2. If the variance were granted, the **spirit** of the ordinance would be observed because:

"The spirit or purpose of the ordinance is to promote the health, safety, and general welfare of the inhabitants of Gorham, and to protect the value of property, and to prevent the overcrowding of land..." Granting this variance does not violate any of those values or spirit. Rather, granting the variance is consistent with the purpose or spirit of the ordinance, because it allows the continued use

of a preexisting building, instead of demolishing part of a building which would lead to loss of value and construction elsewhere.

3. Granting the variance would do substantial **justice** because:

It will correct a preexisting issue. The building has been in its present state since at least 1988 and there have not been any issues with the location or use of the property. Furthermore, the current owner was not responsible for the initial construction of the building and could not have avoided the current issue. It would also be an incredible expense to require the new owner to bring the building into conformance with the current set back requirement. Therefore, allowing the same use to continue, a use which has not been objected to by anyone, and avoiding unnecessary expenses, will achieve substantial justice.

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:

As noted previously, this building was built over 34 years ago, and no changes are being requested at this time. All that the owner is requesting is for the building to remain as it is. As such, the values of the surrounding properties will not be diminished because nothing is changing.

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary **hardship** because:

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

The purpose of the ordinance is to guide the construction of properties **before** construction has begun and been finished. In this case, this property and request for variance is unique because the construction and issue occurred a long time ago. The applicant is not requesting a variance to do something. In this case the applicant is requesting that the board approve something that already exists through no fault of the applicant or the board.

and:

- ii. The proposed use is a reasonable one because:

The building has already been constructed; the building has been in use for a long time as it was constructed without any issues or complaints; the use is allowed under the ordinance, and therefore reasonable.

- B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Again, the building was built over 34 years ago (built in 1988) and this variance request is only being requested to recognize something that already occurred through no fault of the applicant or the board. The ordinance is designed to address these types of issues before construction begins and to evaluate the property before it is developed. In this case, unlike normal cases, the building has already been constructed and granting the variance will allow the applicant a greater opportunity to improve the property. As it stands now, with the zoning issue, the applicant cannot finance the property to make improvements to it. In fact, if the variance is not approved, the value of the property will be diminished and thus the Town will suffer an economic loss by having property in the Town that loses value rather than gains in value.

Applicant _____


(signature)

Date 12-28-22