



**TOWN OF KITTERY**  
**CODE ENFORCEMENT OFFICE**  
 200 ROGERS ROAD, KITTERY, MAINE 03904  
 PHONE: (207) 475-1305  
 FAX: (207) 439-6806

*Application to the*  
**BOARD OF APPEALS**

DATE SUBMITTED	
MAP & LOT	
ASA FEE	
DATE PAID	
DATE COMPLETE	
HEARING DATE	

**UNBUILDABLE LOT APPEAL**

I have reviewed Town Code Title 13 & Title 16, Board of Appeals By-Laws, and the Ordinance(s) pertinent to this application. My request is based on Title 13, Section 13.2.2, Unbuildable Lot Appeals

**IN ORDER FOR AN APPLICATION TO BE DETERMINED COMPLETE AND SCHEDULED FOR A PUBLIC HEARING:  
 APPLICATION FORMS MUST BE COMPLETE; 10 SETS OF DOCUMENTATION PROVIDED; & ALL FEE(S) PAID**

PROPERTY INFORMATION					
ADDRESS					
MAP		LOT #		LOT SIZE (sq. ft.)	
STREET FRONTAGE				TOWN TAX RECORD ACCOUNT #:	<i>(ATTACH COPY)</i>

PROPERTY OWNER: I have right, title or interest in the affected property, or issue, as shown by:					
NAME(S)					
MAILING ADDRESS					
CITY		STATE		ZIP CODE	
PHONE No.			e-MAIL:		

*NOTE: You may have an attorney represent you, but such representation is not necessary. You may also be represented by a designated agent (e.g. family member, neighbor, engineer, contractor) as you so desire.*

APPLICANT (if different) I am an agent of the applicant with standing, as shown by:					
NAME(S)					
MAILING ADDRESS					
CITY		STATE		ZIP CODE	
PHONE No.			e-MAIL:		

Definitions applicable to Unbuildable Lots are:

**Unbuildable** means no structure containing or required to contain sanitary facilities may be legally constructed due to zoning restrictions.

**Zoning** means any land use and development statute, ordinance, rule, or regulation promulgated by a federal, state, or local government or agency.

Filed applications must be accompanied by a written statement from the Code Enforcement Officer and Town Planner regarding whether the involved property is developable as defined in Title 13.

**Describe the general nature of your unbuildable lot:**

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To the best of my knowledge, all information submitted on and with this application is true and correct.

Date: \_\_\_\_\_

By: \_\_\_\_\_

*(Signature)*

*(Print Name)*

**AFFIRMATIONS** (Please read and check all the boxes to confirm)

**I UNDERSTAND THAT THE BOARD OF APPEALS:**

- Appears to have jurisdiction to hear this appeal; hearing must be held within 30 days of this request filing; application must be complete; and, public and abutter notice must be made no less than seven days prior to the scheduled hearing.
- Will conduct this hearing De Novo (meaning the Board acts if it were considering the question for the first time, affording no deference to the preceding agency decisions; may receive new evidence and testimony consistent with this Town Code Title 16 and the Board rules; and, conduct additional hearings and receive additional evidence and testimony).
- Will determine my Burden of Proof:
  - 1) What does the ordinance/statute require the applicant to prove?
  - 2) Does the ordinance/statute prohibit or limit the type of use being proposed?
  - 3) What factors must be considered under ordinance/statutes to decide whether to grant the request?
  - 4) Is the evidence presented substantial? Is it credible? Is it outweighed by conflicting evidence?
- Requires substantial evidence as the Standard of Review for this request, meaning:  
*"More than a mere scintilla". It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The preponderance of evidence standard is met if the proposition is more likely to be true than not true. The standard is satisfied if there is greater than fifty percent chance that the proposition is true.*
- May hear, decide, and approve variations in accordance with the criteria listed in Town Code Title 16, Sections 6.6.1, Factors, and 6.6.2, Considerations; and may consider other Title 16 standards.
- Approval may not be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the Town is responsible for enforcing.
- Is only legally authorized to deal with issues arising from the list above, and do not include such matters as constitutionality, civil rights, criminal acts, property disputes, surliness, etc.
- Will not even hear my appeal unless I can show that I have "standing" to have my request heard.
- Purpose of establishing my case for "standing" is to limit appeals on an issue to those who are directly involved and/or affected.
- 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 State Supreme Judicial Court.
- Tries to make decisions it believes would be upheld if appealed to Superior Court.

**STATEMENTS:**

I wish to appeal to the Board of Appeals because I have a problem in regard to a matter of Town Code Title 13, Public Services and/or the 2016 adopted Assessment Plan which considers my property to be benefited and liable for an Assessment Fee, whereas the following shows that the parcel is unbuildable according to Town Code Title 16.

The Assessment Plan data/decision I object to is [Include formal documents related to the matter ]:

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I object to the decision for the following reason(s):

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Unlike other affected property owners, 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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What relief is requested and why should the appeal be granted?

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**Additional Information**

1. 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 Board of Appeals.

[Support with citations(s), of pertinent ordinance(s), deeds, maps, documents, etc. Describe in detail what decision you are appealing; the date on which the decision was made; and, by whom, the facts surrounding this appeal, what you think is wrong about the decision which you are appealing, and what action you want the Board to take in this matter. Also, please indicate how that Panel/Board's decision will affect you and/or your property. Use extra sheets if necessary and attach them to this application.]

2. A detailed plot plan or diagram must be provided showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic features (wetlands, streams, etc.) of the lot in question. This plot plan should show the detail of any rights-of-way, easements, or other encumbrances. A copy of the Town Property Tax Record must be provided.

3. Blueprints, surveys, photos and other documents may be helpful in explaining your request and should be included.