

Board Of Appeals

Town of West Newbury

Regulations and Appeals

1. Meetings:

Meetings of the Board shall be held at the call of the Chairperson and applicants will be advised by mail of the time and place of the public hearing.

2. Hearings:

All hearings of the Board shall be open to the public, and shall be held only after notice given as provided by statute and the Zoning Bylaw.

A detailed record shall be kept of all hearings, including the votes of each member of the Board on all questions.

Parties shall appear at the hearings in person or be represented by an agent or attorney. The Chairperson shall call the name and address of the agent or attorney appearing for the party to be entered in the record.

3. Members:

The Chairperson shall preside at all meetings of the Board. In the absence of the Chairperson, the Clerk shall preside. In the absence of both of the foregoing, the senior member of the Board shall preside.

The Chairperson, or the member acting as Chairperson, shall make all rulings concerning the conduct of the hearing and the introduction of evidence subject to objection by any member of the Board. In the event of such objection, the vote of the majority of the members present and voting shall govern.

In the event of a vacancy on the Board, absence of a regular member, or a vested interest on the part of a regular member, the Chairperson shall appoint one of the associate members to sit at a meeting of the Board.

4. Procedures:

Applications for Variances and Appeals to the Board shall be made on forms provided by the Board and pursuant to the Regulations. Forms and Regulations shall be available in the office of the Town Clerk.

Applications shall be filed with the Town Clerk

Each application shall be completed by the applicant, and all applicable items therein shall contain the information required.

Each application shall be accompanied by:

- 1) A copy of the refusal by the Building Inspector and/or the Planning Board to issue a permit or approval sought by the applicant. (If applicable)
- 2) A copy of the denial by the Zoning Enforcement Officer of a request that the Zoning Bylaw be enforced (if applicable).
- 3) An original plus 8 copies of the application.
- 4) Each application shall likewise be supplied from the applicant and accompanied by the original plus 8 copies of building plans 8 1/2 x 11 or larger, a plot plan (certified plot plan, if available) in 40 scale and 11 x 17 size showing:
 - A) The distance from any existing and/or proposed building to the front, sides and rear lot lines.
 - B) The location and dimensions of each existing and/or proposed building.
 - C) The dimensions of the lot or lots in question by metes and bounds.
 - D) The location and size of the driveways and parking areas.
 - E) The true locations of existing public or private ways near such land and Easements and rights of way crossing said land.
 - F) The distance from the proposed alteration and/or structure to the nearest structure on each direct abutters property and;
 - G) Any other pertinent measurements.

The plan shall contain at the lower right-hand corner a legend, including a scale. The plan does not necessarily have to be drawn by a registered engineer, surveyor or architect, but at minimum it must clearly show all the aforementioned information.

The petition must contain a list of the names and addresses of abutters to the property in question, including property across the street or right of way, the owners land within 300 feet of the property line, all as they appear on a most recent applicable tax list, and certified by the Board of Assessors.

The Board shall not proceed with the publication of the notices or the hearing without payment of \$225.00. Check to be made payable to the Town of West Newbury and submitted with the application.

Petitions must be presented at the time of hearing by the petitioner, their attorney or representative, or otherwise petitions may be dismissed.

All petitions must be presented by individuals, partnerships or corporations being parties in interest in the appeal applied for.

No application will be considered by the Board until all the foregoing requirements have been met by the applicant.

5. Filing Deadline:

The filing deadline for new applications is to be the first Tuesday of every month for a hearing the following month.

6. Evidence:

The Chairperson has the right, whenever he or she deems necessary or advisable, to summon witnesses, administer oaths and require the production of instruments or evidence.

7. Viewing:

The members of the Board may view any building and lot or lots of land that may be the subject of any application.

8. Disqualification of Members:

It shall be the duty of any member or associate member of the Board to disqualify him or herself whenever he/she has reason to believe that by reason of personal or professional interest, or for any other reason, he/she cannot render an impartial decision on any application or appeal.

No members or associate members of the Board shall represent before such Board any part of interest in any matter pending before it.

The interested parties shall have the right to challenge any member of the Board concerning whom they have evidence of interest or inability to render an impartial decision in the absence of voluntary disqualification by the challenged member, the challenged member and the remaining members of the Board shall hear the parties or party on the question of such interest. The challenged member shall have the right to refute the challenge or that member may be presented by counsel. The decision of the majority of the Board shall determine the question of right of the challenged member to sit at the hearing.

9. Site Granting:

The granting of any Special Permit, Variance, Appeal or Finding does not take effect until all appeal procedures and/or time limits have expired without further appeals according to the zoning act.

The granting of any Special Permit, Variance, Appeal or Finding shall not take effect until the applicant has shown proof that the Board's decision has been properly recorded at the Registry of Deeds. This proof must be presented to the Inspector of Buildings before he can issue a permit for the requested use that the Board has granted.

These rules became effective on September 25, 1996.

Revised on July 19, 2004.

8.A.1.c. Board of Appeals Rules and Regulations and Fees

- 1) The Board of Appeals shall adopt, and from time to time amend, Rules and Regulations to effectuate the purposes and intent of the provisions of this Bylaw section, as authorized in M.G.L. Chapter 40A, §12.
- 2) Such Rules and Regulations shall prescribe at a minimum the size, form, contents, style, number of copies of plans and specifications, and procedure for submittal and materials required, Public Hearing requirements, Fee Schedule, and the town boards or agencies from which the Board of Appeals shall request written reports.

8.A.1.d. Procedure for Filing Applications for Appeal, Variance, and Extension or Alteration of Pre-Existing Non-Conforming Uses or Structures

- 1) A written Application, prepared in compliance with the Rules and Regulations of the Board, shall be submitted by delivery or by Certified Mail, with return receipt requested, to the Town Clerk, who shall transmit it to the Board of Appeals.
- 2) The Town Clerk shall time and date stamp copies of the submittal, and shall retain a copy of the submittal for office files.
- 3) The submittal shall include a Certified List of Abutters from Assessor's Office which lists all abutters within three hundred feet (300') of the locus.
- 4) Notice of the Public Hearing shall be made in compliance with the requirements of M.G.L. Chapter 40A, §11, as amended.
- 5) The Board shall hold a Public Hearing with regard to any such Application within sixty-five (65) days of the filing thereof.
- 6) The Board of Appeals shall supply a copy of a Legal Notice to the Applicant. In accordance M.G.L. c. 40 §11, the Applicant shall send a copy of the Legal Notice to all parties in interest by Certified Mail, Return Receipt Requested.
- 7) Return Receipt Requested (USPS) cards for each abutter listed on the Certified List of Abutters and all parties in interest shall be submitted to Board of Appeals at the commencement of the hearing.

8.A.1.e. Procedure for Filing Applications for Special Permit

See Sections 8.A.1.d.1) through 7) for filing requirements.

8.A.1.f. Filing and Plan Requirements

An application for a Variance, Extension or Alteration of Pre-Existing Non-Conforming Uses or Structures, Special Permit, or an Appeal shall be submitted in accordance with the Rules and Regulations of the Board of Appeals.



Town of West Newbury
ZONING BOARD OF APPEALS APPLICATION
SPECIAL PERMIT - VARIANCE - FINDING - OTHER RELIEF

1. Name of Applicant: _____ Phone: _____
Address: _____
2. Owner of Property: _____
Address: _____
3. Address or Map & Lot of property in question: _____
Area: _____ Frontage: _____ Zoning District: _____
Percentage of Buildable Contiguous Area (6.1.1): _____
4. Present use of property: _____
5. Has any Variance, Special Permit or Finding previously been requested on this property?
Date Approved: _____ Date Denied: _____
Name of previous applicant: _____
6. Provisions of the Zoning Bylaw under which Special Permit, Variance or Finding is requested
Article and Section: _____
7. For what purpose is the Special Permit, Variance or Finding needed?

8. Attach a certified list of abutters and parties in interest within 300 feet of the boundaries of the property together with their addresses
Said list is obtained through the office of the Assessors.

For VARIANCE answer questions 9 & 11

For SPECIAL PERMIT answer question 12

For FINDINGS answer question 13

For OTHER RELIEF see #14
9. What are the special conditions relating to the soil conditions, shape, or topography of the land or structures for which the variance is requested which especially affect the land or structures but do not affect generally the Zoning District in which it is located? _____
10. What is the substantial hardship, financial or otherwise, to you, which would result from a literal enforcement of the provisions of the Zoning Bylaw?

11. Why does the applicant believe that the variance requested may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw?

12. Why does the applicant believe:

*That the proposed use or building will be in harmony with the general purpose and intent of the Zoning Bylaw?

*That the use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district?

*That the adequate and appropriate facilities will be provided for the proper operation of the proposed use?

*That the proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials or other visual nuisances?

*That the proposed use would not cause undue traffic congestion in the immediate area?

13. Why does the applicant believe that the proposed change, extension or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use?

14. Attach explanation if relief from the Zoning Enforcement Officer's refusal to enforce bylaws is requested, together with a copy of your letter to the Zoning Enforcement Officer and a copy of the response.

Applicants signature

Date

LIST OF ABUTTERS AND PARTIES IN INTEREST TO BE ATTACHED (see #8)