



Town of West Boylston

Zoning Board of Appeals

PETITION

PROCEDURE TO BE FOLLOWED BY PETITIONER

The Petitioner(s) shall complete the following forms and file same with the Town Clerk within thirty days of the decision which is being appealed.

1. **PETITION** To Board of Appeals
2. **Form A** Application for VARIANCE petition
3. **Form B** Application for SPECIAL PERMIT petition
4. **Form C** List of abutters
5. **Form D** Specifications for Plan which must be submitted in all classes
6. **Form E** Application for COMPREHENSIVE PERMIT
7. **Form F** MISCELLANEOUS
8. **Form G** Request for ADMINISTRATIVE APPEAL
9. **Fees** The fee must accompany the application or petition. This fee covers the costs of legal advertising and other administrative costs.

Variance, Special Permit or Administrative Appeal <u>(does not include Special Permit for Accessory Apt. or Home Occupation)</u>	\$400.00
Accessory Apartment or Home Occupation Special Permits	\$300.00
Comprehensive Permit	\$550.00 plus \$150 PER UNIT

****NOTE: COMPLETE PETITION PACKET MUST BE FILED WITH THE TOWN CLERK NO LESS THAN THIRTY-FIVE (35) DAYS PRIOR TO THE DATE OF THE PUBLIC HEARING OR THE HEARING DATE MAY HAVE TO BE DELAYED.**

Review Fees for a Comprehensive Permit:

- 1) When reviewing an application for, or when conducting inspections in relation to, a Comprehensive Permit application, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the Comprehensive Permit application. Whenever possible, the Board shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of the consultant fees. Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable "project review fee" of a sufficient sum to enable the Board to retain consultants chosen by the Board alone. The Board may require that an applicant deposit a lump sum in order to retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.
- 2) In hiring outside consultants, the Board may engage engineers, financial analysts, Planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.
- 3) Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at

the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an application to pay a review fee shall be grounds for denial of the Comprehensive Permit application. The account established shall be in accordance with Massachusetts General Laws, Chapter 44, Section 53G.

- 4) At the completion of the Board's review of a project, any excel amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- 5) Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within twenty (20) days after the Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the appeal, the selection made by the Board shall stand.

NOTICE OF HEARING

Due notice of the Hearing date will be given to the petitioner(s), abutters and other parties in interest. An applicant may appear personally and/or with representation by a duly authorized attorney or agent. The application will be given the opportunity to present witnesses and evidence. Persons appearing in opposition will be given an opportunity to be heard. In the event of the unexcused absence of the applicant or his representative at hearing upon the matter, the Board may issue a decision upon the matter based upon all information submitted and available to it.

DECISION

In most cases, a decision will be made immediately following the Hearing. If a decision is not made at said Hearing, it will be made at an open meeting of the Board of Appeals as follows:

- A. In case of a Variance, decision will be made within 75 days of the date of filing of the application with the Town Clerk's Office.
- B. In the case of a Special Permit, a decision will be made within 90 days of the date of Hearing.

The applicant will be notified in writing of the decision of the Board.



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APPROVED FORMS PACKET AND GENERAL INFORMATION

The following instructions, forms and information are designed to assist petitioner(s) in seeking a Variance, Special Permit or extension of change in the non-conforming use of property. In preparing same, the Board of Appeals has made an effort to conform to the procedural and substantive requirements imported by the Town zoning Bylaws and Chapter 40A of the Massachusetts General Laws. Although references are made to certain sections of the Town Bylaws and Chapter 40A of the Massachusetts General Laws of the information contained herein, it is not an exhaustive commentary on the law of variances, etc., and the PETITIONER IS CAUTIONED TO REVIEW THE LAW OR SEEK ADVICE OF LEGAL COUNSEL OR OTHER CONSULTANTS.

VARIANCE (Excerpt from M.G.L. Ch. 40A)

The permit granting authority shall have the power, after public Hearing for which notice has been given by publication and posting as provided in section eleven by mailing to all parties in interest, to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or bylaws where such permit granting authority specifically find that owing to circumstances relating to the soil conditions, shape. Or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner(s) or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw.

SPECIAL PERMIT (Excerpt from M.G.L. Ch. 40A)

Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or bylaw, and shall be subject to general specific provisions set forth therein; and such permit may also impose conditions, safeguards and limitations on time or use.

EXTENSION OR CHANGE OF PRE-EXISTING NON-CONFORMING USES

See Chapter 40A, Sections 6 and 9.