



The City of Waltham
ZONING BOARD OF APPEALS

APPLICATION PACKET
FOR THE
ZONING BOARD OF APPEALS

APPLICATION FOR SPECIAL PERMIT
PETITION/APPLICATION FOR VARIANCE
APPEALS FROM DECISION OF INSPECTOR of BUILDINGS

119 School Street • Waltham, MA 02451
Telephone: 781-314-3330 • Fax: 781-314-3341
pdoucette@city.waltham.ma.us

CHECKLIST

Complete file shall include:

- ☐ Completed original Application/Petition- Signed by Petitioner or Agent; stamped and signed by Inspector of Buildings and date-time stamped by City Clerk.
- ☐ Six (6) copies of all plans- all plans must be appropriately stamped and signed by certified professionals and stamped by Building Department.
- ☐ Abutters List, Certified by City Assessor - (certification is required for any abutters outside of Waltham by the appropriate town/city)
- ☐ Legal notice
- ☐ 2 sets of Mailing labels, to include all abutters (certified by assessors department), owners, petitioners and attorney and other municipal entities within 300 foot radius (i.e., Mass Highway, Cambridge Water, Town of Weston, Lexington, etc.)
- ☐ Tax Status Report – showing all taxes are current
- ☐ Proof of Standing of Petitioner- showing the petitioner's relationship to locus- (Lease, Deed, Purchase and Sale, Letter from Owner)
- ☐ If appealing Inspector of Buildings' decision- (Submit letter of Denial/Zoning Violations by Inspector of buildings)
- ☐ Filing fee

FILING PETITIONS/APPLICATIONS

Please carefully read all of the following requirements. All requirements must be complied with. If after review, by the Chair, a member of the Board or Person designated by the Board finds that the application, appeal or petition does not comply with the requirements of the Board, does not comply with the requirements of Chapter 40A, is incomplete or is improperly filed, the Petitioner will be notified and given opportunity to bring the petition into compliance. If the application is not brought into compliance the Board at the hearing shall deny the application for failure to file a complete application.

Reminder: Before filing an application with the ZBA, all taxes, fees, assessments, betterments or any other municipal charges due the City of Waltham must be paid in accordance with G.L.M. chapter 40 §57. Petitioner can obtain a receipt of such payment from the Treasurer's Office, located in City Hall, 610 Main Street, Waltham, MA.

Building Department Stamp

City Clerk Date/Time Stamp

Initials: _____

ZBA Date Stamp

City of Waltham

Zoning Board of Appeals

Application/ Petition Form

PARCEL ID: _____ MAP _____ BLOCK _____ LOT _____

PETITIONER: _____

MAILING _____

ADDRESS: _____

OWNER: _____

MAILING _____

ADDRESS: _____

NATURE OF APPLICATION/PETITION:

_____ Application for Variance - TYPE: _____

_____ Application for Special Permit- TYPE: _____

_____ Sign Variance

_____ Other- please specify _____

SUBJECT MATTER: _____

LOCATION: _____

ZONING DISTRICT: _____

PROVISIONS OF ZONING ORDINANCE INVOLVED: _____

SPECIFIC RELIEF SOUGHT: (Attach additional sheets as needed)

DETAILED HISTORY OF VARIANCES/NON-CONFORMING
USES/SPECIAL PERMITS ON LOCUS (Attach additional sheets as needed- include all dates,
measurements, etc.)

Date: _____ Signature of
Petitioner(s) _____
Signature of
Owner(s) _____

Name and Address of Attorney: _____

Contact Information : _____

Email: _____

To be completed by Building Department:

_____ Check if a permit to proceed with proposed subject matter has been refused by the
Inspector of Buildings.

Date of Refusal: _____
Reason for Denial: _____

Signature of Inspector of Buildings: _____

For Assessor's Use:

List of Abutters to be Notified of Hearing and Decision

Name and Mailing Address of Petitioner

Name and Mailing Address of Owner

Name and Mailing Address of Attorney

Location of Property

LOCATION OF PROPERTY (map, block and lot numbers)			NAME OF OWNER	Mailing ADDRESS OF OWNER
<i>Number and Street</i>				
<i>Map</i>	<i>Block</i>	<i>Lot</i>		

Legal Notices

Due to the costs of advertising, Legal Notices should be kept as **brief** as possible but must contain the following information:

1. Date, time and place of the public hearing;
2. Name of the petitioners;
3. Nature of Appeal (Variance, Special Permit, Appeal of Building Inspector's Decision)
4. Subject Matter
5. Location of Property (Street address, if any or other adequate identification of the location) and Zoning District;
6. Provisions of Zoning Ordinance involved;
7. Specific Relief sought

Legal Notice must be filed with the petition. If possible, please also, submit by email to pdoucette@city.waltham.ma.us, prior to filing or immediately after filing. Once the Legal Notice is sent to the News Tribune for the publication, the Petitioner/Attorney will be advised of the advertising fees, which should be paid as promptly as possible, (made payable to the "City of Waltham").

INSTRUCTIONS AND PROCEDURES

I. Plans

Have all required plans prepared- please make sure all plans are **signed** and **stamped** by the appropriate professional(s). (i.e., abutter plans, plot plans, topographical- by registered engineer or surveyor; building plans- registered architect for buildings larger than 2 family).

Conceptual Plans and unsigned plans will not be accepted or looked at in the decision process.

Six (6) Copies of all plans shall be submitted to the Board with the petition (other departments may also require copies, please make sure you have enough copies- i.e., Building Department requires one)

A. Abutters Plans and Plot Plans –

1. Plans must be dated within **six (6) months** of filing, signed, and bearing the seal of a registered surveyor or engineer.
2. The **preferred** size of the plan is **11" by 17"**. The size of the plan should be **no larger** than 2' (24 inches) by 3' (36 inches).
3. It **shall** have a north point; names of **all** streets; and zoning legend
4. Names and mailing address of the current owners of property, to include:
 - a. those who own the Locus;
 - b. those who directly abut the applicants locus;
 - c. those who are directly opposite on any public or private street or way;
 - d. and those who are within a 300 foot radius of the locus property lines.
5. The location of the building or use of the property where a variance is requested and distance from adjacent buildings and property lines shall be verified in the field and shown on the plan. The dimensions of the lot and the percentages of the lot covered by the principle and accessory buildings and any other special requirements parking, landscaping, etc., and the required parking spaces, shall be shown. Entrances, exits,

driveways, etc., that are pertinent to grant the variance shall be shown.
All proposed data should be shown in red.

6. The Locus should be highlighted or designated in such a way as to be easily located.
7. Any **topographical features** of the parcel of land relied upon for a variance, such as ledge, rock, peat or natural conditions of water, brook or river, should be clearly shown.
8. The **dimensions** of all of the lots within the 300 foot radius, should be clearly shown.
9. All **map, block** and **lot** numbers should be clearly shown or designated on the map.
10. Each Lot should also clearly show **street numbers**.
11. The Plot Plan may be superimposed on a corner of the Abutters Plan if space allows. May be on an 8 ½" by 11 sheet (6 copies).

Abutters' List - The information required to be shown on the ABUTTERS plan, relative to the names and current mailing address of property owners, required to be notified, ***shall*** be compiled on a separate sheet of paper.

Please use form attached, in descending order by map-lot-block numbers. Make sure to include the street number and atlas block number of the property, as well as full name and current mailing address of owner(s) for each lot touching or within the 300 foot radius (300 feet out from each corner of the lot). **ANY LOT OUTSIDE OF WALTHAM MUST BE CERTIFIED BY THE APPROPRIATE CITY OR TOWN.**

B. Building Plans - If any building is to be constructed, renovated, remodeled or changed in any way, six (6) copies of the following described plan shall be submitted, to the Board:

1. A floor plan of each floor on which work is to be done.
2. A floor plan showing the stairways, halls, doors, openings into hallways, and exits, of each floor or floors.
3. An elevation of the parts of the building where outside stairways or fire escapes are to be located.
4. The plans and elevations shall show all existing work, including all existing outside stairways and/or fire escapes.
5. **The proposed work shall be shown in red.**

6. The size of each plan shall be no larger than 24 inches by 36 inches, (preferred size is 11 inches by 17 inches).

****It shall be the obligation of the applicant to have the building plans reviewed and signed by the Fire Inspector and the Building Inspector, make arrangements with them to have the locus inspected and submit to the Clerk of the Board any written safety recommendations made by them.**

II. APPLICATION FORM

- A. No petition shall be eligible for either legal publishing or ready for presentation at a formal hearing until it complies with the following requirements:
 1. Bears the Signature of the Applicant, or of such agent or attorney as may represent the applicant;
 2. Describes the subject matter of the application or petition (e.g. “the construction and maintenance of and addition to an existing single-family dwelling”);
 3. Sets forth the provision or provisions of the Zoning Code from which a variance or special permit is needed;
 4. Sets forth the specific manner in which the subject matter, for which the variance or permit is requested, varies from the present zoning code. (e.g., “the resulting easterly side yard will be 10 feet”);
 5. Sets forth a history of the property to include all previous variances, permits, orders, etc., from all city departments and boards/commissions;
 6. Includes a title reference if Real Property is involved and the street name and number when available, owner and owner’s mailing address must be included, if not petitioner;
 7. Includes any such additional information the Board may from time to time request.

III. FILING

- A. **First - BUILDING DEPARTMENT-** Bring Petition (and copies, if needed) and 7 copies of each plan, (Building Department will require a copy) to the Building Department, located at 119 School Street, Ground Floor, for

review and to be stamped and signed (all copies of the plans must be stamped and signed by the Building Inspector).

- B. **Second - CITY CLERK-** Bring stamped Petition (and copies), Abutters List, Stamped Plans and filing fee, (currently the fee to file is \$20.00 - payable to the “City of Waltham”) to the City Clerk’s Office, second floor of City Hall at 610 Main Street. File a **copy** of the petition with the City Clerk and have the Original Petition date-time stamped.
- C. **Third - ZBA OFFICE-** The **original** petition (date-time stamped by the City Clerk and stamped by the Building Department), Abutter’s list, and 6 copies of plans (stamped by the building department) will be filed with the Zoning Board of Appeals’ Office, at 119 School Street, third floor, Waltham, MA.
- D. **A COMPLETE FILING** with the Zoning Board of Appeals, will include:
 - 1. Completed original Application/Petition, stamped and signed by Inspector of Buildings, and date-time stamped by the City Clerk
 - 2. Six (6) copies of all plans (Stamped by Building Department), all plans must be appropriately stamped and signed by certified professionals.
 - 3. Abutters’ List- (certification is required for any abutters outside of Waltham, by the appropriate town/city)
 - 4. Filing Fee (see Attached) and Mailing Fee (may be paid with the advertising fee). Mailing Fee is based on current mailing prices.
 - 5. Legal notice
 - 6. 2 sets of Mailing labels, to include all abutters, owners, petitioners and attorney and other municipal entities within 300 foot radius (i.e Mass Highway, Town of Weston, Lexington, etc.)
 - 7. Tax Status Report – showing all taxes are current
 - 8. Proof of Standing of Petitioner- showing the petitioner’s relationship to locus- (Lease, Deed, Purchase and Sale, Letter from Owner)
 - 9. If appealing Inspector of Buildings’ decision- (Submit letter of Denial by Inspector of buildings/ Cease and Desist orders)
- E. With everything in order and properly stamped, you will be given a DOCKET NUMBER. The BOARD may assign a tentative HEARING DATE at the time of filing or may let Petitioner know at a later time.

- IV. 14 DAYS PRIOR TO HEARING-** To be filed 14 days prior to the scheduled hearing – may be submitted by email or may prepare 10 packets with postage for mailing.
- A. **Findings of Fact and Proposed Decision-** Be prepared to bring exhibits to prove each fact at the hearing. Show detailed history of the Property, (e.g., if any Variances, Special Permits or non-conforming uses were previously applied for and whether it was granted, denied, or withdrawn; when and for what, to include the dimensions, etc.). Also, in Proposed Decision make sure all statutory requirements are satisfied and any conditions or plans are included.
 - B. **Memorandum of Law-** A memorandum of fact and law will be required at least 14 days prior to the hearing. Memorandum should give a history of the property and should be sufficient in law to meet the requirements of Chapter 40A of the General Laws of Massachusetts.
 - C. **Advertising Fees-** should be made payable to the City of Waltham. (Cost of advertising will be calculated by the News Tribune and the cost will be forwarded to the Attorney/Petitioner.)
- V. HEARING** - At the hearing, be prepared to present the case and bring any materials, which may facilitate the Board, (pictures, letters, etc.) providing a copy of each for every Board Member (5) and (1) for the Stenographer to enter into the record.
- VI. DECISION** - If Petitioner is able to do so, on the day following the decision, the Petitioner should e-mail the Proposed Decision and Proposed Findings of Fact with any changes or conditions required by the Board to the following email address; pdoucette@city.waltham.ma.us. If Petitioner is unable to e-mail then the above-mentioned documents should be copied to a disk and submitted.

Reminder: When the appeal period on a granted petition has run, Petitioner/Attorney must secure a certified copy of the decision from the City Clerk's office. A certified copy of the decision must be recorded with the Middlesex South District Registry of Deeds. This must be completed in order to obtain a permit, a copy of the recorded document will go to the building department and a copy should be sent to the ZBA office. (It is highly suggested that plans stated in the decision be recorded as well).

Fee Schedule

Advertising* On case by case basis, at current rate of publishing- (to be paid prior to hearing)

Mailings* Petitioner shall cover the cost of mailings at current rates- (to be paid prior to hearing)

Variances

1-2 Family Homes- \$ 100.00 for all variances presented in one application.

Other Residential
(up to 10 units)- \$ 100.00 per Variance

All Other- \$ 500.00 per Variance

Signs- \$ 250.00 per sign

Extension of Time \$ 100.00 for commencement or completion of construction

Appeals from Decisions of the Building Inspector \$ 250.00

Special Permits- (based on use and per Special Permit)

Residential \$ 200.00

Commercial/Industrial \$ 500.00

Other \$ 200.00

Comprehensive Permits

1-6 units \$ 3,000.00

7-25 units \$ 5,000.00

26-50 units \$ 7,500.00

51-75 units \$10,000.00

76 plus units \$15,000.00

*Please call Zoning Board of Appeals Office for Current Rates

REGULATIONS AND PROCEDURES REGARDING VARIANCES FROM FLOOD PLAIN DISTRICT OF THE ZONING BY-LAW

1. The Zoning Board of Appeals may issue a variance after the following facts have been established.
 - (a) Evidence presented must show a good and sufficient cause.
 - (b) Evidence that failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) The Zoning Board of Appeals shall make the following Finding of Facts:
 - (i) That the granting of variance will not result in foreseeable flood height increases.
 - (ii) The variance would pose minimal additional threat to the public safety.
 - (iii) The variance would not be the cause of extra ordinary public expenses, cause fraud or victimization of the public.
 - (iv) The variance shall not substantially conflict with existing local ordinance.
 - (v) Evidence must show that the variance requested is the minimum necessary to achieve relief due to the existing flood hazards.
2. Variances may be granted from structures to be erected on a lot of one half acre or less in size, if otherwise permitted by law, contiguous to and surrounded by lots with existing structures constructed below the base flood level.
3. A variance shall not be granted within any designated regulatory floodway if any foreseeable increase in flood levels during the base flood discharge would result.
4. Whenever a variance is granted under this Flood Plain District procedure, the Zoning Board of Appeals shall notify the applicant in writing over their signature that:
 - (a) The issuance of such variance to construct a structure below the base flood elevation most likely will result in increased premium rates for flood insurance.
 - (b) Such construction below base flood levels will increase risks to life and property.
5. The Zoning Board of Appeals shall maintain a record of all variance actions, including justification for the issuance and report such variances granted in the Annual Report submitted to the Federal Insurance Administration.
6. Variance may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or on a State Inventory of Historic Places, without regard to procedures set forth above.

NOTE: The granting of a variance from the regulations set forth in the Floodplain section of the Zoning Ordinance does not excuse the recipient of such a variance from compliance with the requirements of the Massachusetts General Laws relating to floodplain districts.