

ZONING BOARD OF APPEALS
PETERSHAM, MASSACHUSETTS

APPLICATION

I, the undersigned, petition the Petersham Zoning Board of Appeals for a:

- Variance *(Check only one - use separate applications if more than one is sought)*
 Special Permit
 Appeal

under the following section(s) of the Petersham Zoning Bylaw:

to permit the following use(s) or structure *(brief description of proposed project)*:

Please provide the following:

Name of Property Owner: _____
Address: _____
Telephone number: _____

Name of Applicant: _____
Address: _____
Telephone number: _____

Property address: _____
Assessor's map & parcel: _____
Deed book/page numbers: _____

Aquifer & Watershed Protection District: Zone I Zone II Zone III N/A
Is the realty located in a flood plain: Yes No

Is there is an agreement to purchase the realty? Yes No

Name of Purchaser: _____
Address: _____
Telephone number: _____

Note: It is strongly suggested that prior to submitting this application, the applicant review the application with either the Petersham Building Inspector and/or Town Planner to insure the accuracy of the form and to insure that all necessary Special Permits or Variances are being applied for under the appropriate sections of the Bylaw.

Applicant Signatures:

Date:

Filing Check List

1. Certified List of Abutters
2. Number of abutters as per certified list _____
2. Abutter addressed US Postal Service *domestic return receipt* and *receipt for certified mail* (2 per abutter)
3. Fees:

A. Application Fee:	\$75
B. Publication Fee:	\$70
C. Postage Fee (\$6.00/abutter)	\$ _____
Total fee due:	\$ _____
4. Five copies of each of the following:
 - A. Application,
 - B. Plans, and
 - C. Brief to the Board.
5. Date/Time Filed:

Please make check payable to "Town of Petersham."

ZONING BOARD OF APPEALS PETERSHAM, MASSACHUSETTS

INFORMATION FOR APPLICANTS

I. Reasons for Making an Application:

- To obtain a *Special Permit*
- To obtain a *Variance*
- To obtain a *Special Permit* for an Extension or Modification of a Nonconforming Use, and
- To file an *Appeal* of a decision of the Building Inspector (or other Administrative Official).

The Applicant is expected to be familiar with the applicable provisions of the Petersham Zoning Bylaws, a copy of which may be obtained from the Petersham Town Clerk for a nominal fee. The Applicant may also find it helpful to review Massachusetts General Laws, Chapter 40A.

Applications to the Board of Appeals must be filed with the Town Clerk. The Clerk will then certify the date and time received (a.k.a., when the application is *filed*.) All applications must be accepted as submitted. It is the applicant's responsibility to be sure that the application is complete and accurate. The Board may deny any application that is incomplete or inaccurate.

II. Payment of Expenses Connected with the Application

A. Application fee: \$75.00.

Note: If an applicant is filing for a variance under two or more separate sections of the Zoning By-law or for a Special Permit under two or more separate sections of the Zoning By-law, only one application is needed. If an applicant is applying for both a Special Permit AND a Variance, two separate applications, one for the Special Permit(s) and one for the Variance(s), must be submitted. Separate fees will be charged for the Variance and Special Permit applications.

B. Postage

The Board of Appeals must hold a public hearing on each application for a Variance, Special Permit, Extension or Appeal. A notice of the Board's public hearing on your Application, and a "Notice of Decision" once the Board has made a decision, shall be sent to each abutting property owner, as follows. The Applicant shall:

- 1, Obtain a list of abutters, as certified by the Town's Assessors Office. An abutter resides: (i) within 300 feet of the subject realty, and/or (ii) directly opposite the subject realty on any public or private street (including abutting towns),
- 2, For each abutter, obtain 2: *domestic return receipts* (green cards) and *receipts for certified mail* from the US Postal Service; and address the same with the abutter's name and address; (please include all other pertinent information requested by the US Postal Service), and
- 3, For each abutter, the Applicant shall pay the Town of Petersham a certified mail postage fee of \$6.00 to cover the costs of certified notice to abutters.

C. Publication:

By State law, notice of the Board's public hearing on your application must also be published for two consecutive weeks in a local newspaper. The Board of Appeals will arrange for this publication in the "Athol Daily News." The fee for this publication must be paid at the time of application submittal. The fee is a flat rate of \$70 for the two (2) weeks.

III. Public Hearing

Regular meetings of the Board of Appeals are held the third Tuesday of each month. An application must be filed with the Town Clerk no less than four weeks before the next month's hearing date. Otherwise the public hearing will be scheduled at a later meeting. Notice of the date and time of the Board of Appeals' public hearing will be mailed to the applicant and the abutters.

The applicant should appear in person at the public hearing, but may be represented by an attorney or other representative. The applicant or representative will be given an opportunity to present witnesses and evidence. Other persons appearing in support of or in opposition to the application will also be given an opportunity to be heard.

IV. Conduct of the Hearing

- A. The Chairperson of the Board of Appeals shall conduct the public hearing. Please note that this is a formal public hearing.
- B. After opening the hearing, the Chair shall read any recommendations from any other Town Boards or agencies. The Chair may then read any written comments received from other interested parties.
- C. The Secretary shall record the names and addresses of all abutters and interested parties present at the hearing.
- D. The Petitioner and/or his attorney may then present evidence in support of the application. Upon completion of the petitioner's presentation, members of the ZBA will be given an opportunity to question the Petitioner. The abutters and other interested parties will then be afforded an opportunity to be heard. No person shall address the Board unless and until the Chair has recognized him or her and identified for the record. All questions and comments shall be addressed to the Chair.
- E. Please note that the "closing" of the public hearing officially ends the input stage of the process but that people may remain or return to see and hear the deliberations, if any.

V. Deliberations and Decision

In most cases, Board deliberations and decisions will occur at the same meeting, following the closing of the public hearing or hearings. If a decision is not made at the same meeting as the hearing, it will be made at a later open meeting of the Board of Appeals as follows:

- A. In the case of a Variance or an Appeal: A decision must be made by the Board and filed in the Town Clerk's office within 100 days of the date the application was originally filed with the Town Clerk.

- B. In the case of a Special Permit, a decision must be made by the Board and filed in the Town Clerk's office within 90 days of the close of the public hearing.

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

Pursuant to G.L. c. 40A, s. 17, any appeal of a Board of Appeals decision must be made to a court within 20 days of the date the decision (called the "Statement of Facts") has been filed in the Town Clerk's office. Notice of this appeal, with a copy of the complaint, must be given to the Town Clerk's office within this 20-day period. See G.L. c. 40A, s. 17 for specific requirements.

IV. Forms and Documents to Be Submitted

In addition to the above, please submit 5 copies of each of the following to the Town Clerk:

- A. Application,
- B. Plans—See below for specifications required, and
- C. Brief to the Board— See below for an explanation.

VII. Extensions

An extension of time for commencing the construction or use permitted by a Variance or Special Permit may be granted by the Board, after a public hearing, at its discretion, provided the application for such extension has been made to the Board prior to the expiration of the applicable time limit and after the Variance or Special Permit has been registered at the Registry of Deeds. The Board may grant an extension of a variance for a period not exceeding six months.

VIII. Other Licenses, Permits Required

If a Variance or Special Permit is granted for a use which also requires a license or permit from some other Town authority, the applicant must also apply for and obtain such a license or permit prior to commencing any construction in connection with the intended use.

IX. Specifications for Plans

In most cases, an accurate plan stamped and signed by a Professional Engineer or Professional Land Surveyor showing the proposed structures and uses must be submitted with the application. The plan shall be:

- (i) At least 8 1/2 inches by 11 inches drawn to a scale of 1 inch = 40 feet, or some other stated suitable scale,
- (ii) Dated/titled and (iii) include the name(s) of the applicant(s) and designer/surveyor.

The plan must have a north arrow, names of streets, wetlands (if applicable), names of abutters, location of buildings on surrounding properties. Existing features are to be shown in black. Setback, side, and rear yard dimensions shall be indicated by a dashed line.

If construction is to be of more than one story, front and side elevations must be submitted. All pertinent and/or restrictive topographical features (i.e., ledge, wetlands, etc.) shall be shown, as well as rights of way, easements, and other conditions affecting the use of the land.

X. Brief to the Board

It is recommended that every Appeal, and every application for a Variance or Special Permit be supported by a written statement setting forth, in detail, all facts relied upon by the applicant which justifies the granting of the Variance Special Permit or Appeal.

A. Variance:

In the case of a Variance, it is to the applicant's advantage that the following points, based upon G.L. c. 40A, s.10, be clearly identified and factually supported:

1. The particular use proposed for the land or buildings;
2. The circumstances relating to the soil conditions, shape or topography of such land or structures for which a Variance is sought and especially affecting such land or structure but not affecting generally the zoning district in which it is located. (Note: unusual soil conditions will not justify a granting of a Variance if they are shared throughout a zoning district.)

Example: An applicant might show facts indicating excessive noise, light, traffic, air or water pollution, etc., would not result from the granting of the Variance.

3. Facts which make up a substantial hardship to the petitioner which results from the literal enforcement of the applicable Zoning Bylaw with respect to the land or structure for which a Variance is sought. The hardship required by Chapter 40A must affect all present and future owners of this land and not merely the present owners owing to their peculiar personal or financial status. A Variance may be based only upon circumstances which directly affect the real estate and not upon circumstances which cause, or may cause personal hardship to the owner.
4. Facts relied upon to support a finding that the desired relief may be granted: [i] without substantial detriment to the public good, and [ii] without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw.

Example: Establishing a retail business in a residential district would tend to be a substantial derogation from the intent and purpose of the By-Law, and such an applicant would have to show facts indicating that it would not be

Your brief should specifically relate to all of the above requirements. Please note that the law does not confer upon any landowner any legal right to a Variance.

B. Special Permit:

The applicant should give factual evidence concerning the criteria set forth in the applicable section of Section the Petersham Zoning Bylaw.

Note: If the ZBA denies your application then you may have to wait two years before reapplying. Therefore, it is best to be fully prepared at the time of the hearing.

If the ZBA grants your Variance and/or Special Permit, the Decision of the ZBA will be filed with the Town Clerk about two to three weeks from the date the Variance and/or Special Permit is granted.

There is a twenty (20) day appeal period after the decision has been filed with the Town Clerk. If no appeal has been filed within twenty (20) days, then the applicant should pick up the original decision from the Town Clerk, which the Town Clerk will sign stating that no appeal has been taken.

The applicant or owner must record the decision at the Worcester District Registry of Deeds. (Note that if the decision involves registered land, it must be registered upon the owner's Certificate of Title.) The owner or applicant shall pay the fee for recording or registering. Proof of recording and a copy of the recorded decision should be returned to the Town Clerk.

Reminder...

This information packet is necessarily brief. Applicants should look to the applicable By-Law and M.G.L. c. 40A further details.



*Town of
Petersham, Massachusetts* 01366-0486
978-724-3353 978-724-3501 (*fax*)

CERTIFICATE OF COMPLIANCE

In order to be eligible for a permit from the _____ Department/Committee, I hereby certify that I have paid all taxes, fees, and charges required of me to be paid to date to the Town of Petersham.

If it is found that any taxes, fees, or charges are outstanding, the _____ Department/Committee has the right to revoke my permit(s) at any time.

(Name, Signature)

(Department/Committee chair)

(Name of permit issued)

(Date)