



Case No: \_\_\_\_\_  
Fees Paid: \_\_\_\_\_

TOWN OF MAYNARD  
ZONING BOARD OF APPEALS

PETITION FOR HEARING

This Petition must be completed, signed, and submitted with the filing fee and supporting documentation by the Petitioner or his representative in accordance with the procedures as set forth on the attachments to this petition.

Address of Property \_\_\_\_\_

Characteristics of Property: Lot Area \_\_\_\_\_ Present Use \_\_\_\_\_

Assessor's Map # \_\_\_\_\_ Parcel # \_\_\_\_\_ Zoning District \_\_\_\_\_

Name of Petitioner \_\_\_\_\_ Phone # \_\_\_\_\_

Mailing Address \_\_\_\_\_

Name of Owner \_\_\_\_\_ Phone # \_\_\_\_\_  
(If not Petitioner)

Mailing Address \_\_\_\_\_

Petition is for  An Appeal from the Decision of the Building Commissioner  
*(Check One)*  A Variance  
 A Special Permit  
 Other Specify \_\_\_\_\_

Applicable Section of the Zoning By-Laws: \_\_\_\_\_

Summarize nature and justification of petition (Please attach full explanation):

\_\_\_\_\_  
\_\_\_\_\_

I hereby request a hearing before the Zoning Board of Appeals with reference to the above Petition.

Signature of Petitioner (or representative) \_\_\_\_\_

Address (if not Petitioner) \_\_\_\_\_

Telephone Number \_\_\_\_\_

Signature of Owner, if other than Petitioner \_\_\_\_\_



## **ZONING BOARD OF APPEALS** **Instructions for Petitioner**

The Petitioner is advised to review the Maynard Zoning By-Laws (copy available at Town Clerk's Office), The Zoning Act (Massachusetts General Laws Chapter 40A), and these instructions, prior to filing a Petition and prior to appearing before the Zoning Board of Appeals (ZBA) at a Public Hearing.

The petition must be completely and accurately filled out, and all information must be entered in the appropriate space provided before the petition will be accepted for filing. Incorrect information may result in denial of the petition.

The petition shall be reviewed by the ZBA before it is accepted as filed. The ZBA reserves the right to have the petition reviewed by the Building Commissioner, the Superintendent of Public Works, and/or the Planning Board before the same is accepted for filing.

The petition must indicate the specific section of the Zoning By-Laws for which each variance, permit, or appeal is being petitioned.

Example: "A variance is sought from Section 4-1 of the Zoning By-Laws from the front setback requirement of Twenty Five (25) feet to Twenty (20) feet".

Each specific variance, permit, or appeal being requested in the petition must be set forth in a separate paragraph of the petition to clearly indicate the different requests. Failure to so state the requests clearly may result in the petition being denied.

The petition must be accompanied by:

- a) A Plot Plan which has been prepared and stamped by a Registered Land Surveyor or Engineer. This Plan must show:
  - i. All existing buildings on the property and all proposed buildings and additions.
  - ii. Distances from structures to lot line and length of lot lines, together with all dimensions and setbacks of proposed buildings.
  - iii. In the case of a residential dwelling, the front of the dwelling as defined in the Zoning By-Laws, and must further show the location of all present or proposed driveway or vehicle access areas.
  - iv. The Plan should, but need not, denote any other significant features of the Lot depicted on the petition, such as fences, stone walls, brooks, drains, or accessory structures.
  - v. If there is significant variation in the topography of the lot which is the subject of the petition it is recommended that spot elevations be shown by the Engineer.
  
- b) A list of all abutters, and abutters of abutters within three hundred foot of the property line of the property affected. This list must be certified by the Board of Assessors. Failure to provide this list will result in the petition being considered incomplete. Incomplete petitions will be returned to the petitioner.

- c) An area map obtained from the Board of Assessors, showing the area in which the property is situated.
- d) A check, payable to the Town of Maynard in the following amount: \$125.00 filing fee plus the fee for postage (this is based on abutters list and the cost of mailing by certified mail, return receipt requested) plus the cost for advertising in the local newspaper.
- e) Appropriate documentation as to the relief being sought. These are outlined in the following sections.

In the case of a **Variance**, the following points, based on Massachusetts General Laws, Chapter 40A, Section 10, should be identified and factually supported on or with the petition form and verbally at the hearing:

- a) The particular Land or Structure, or the Use proposed for the Land or Structure, if any;
- b) The circumstances relating to the soil conditions, shape or topography of the Land or Structures and especially affecting the Land or Structure for which the Variance is sought which do not affect generally the Zoning District in which it is located;
- c) The facts which make up the substantial hardship, financial or otherwise, which results from the literal enforcement of the applicable zoning restrictions with respect to the Land or Structure for which a Variance is sought. (Substantial hardship is not purely economic in nature. It is insufficient to present evidence at the hearing merely showing that the value of the land in question will be affected by a lack of or denial of the requested variance.);
- d) The facts to support that the relief sought will be without substantial detriment to the public good; and that the public health and safety is not compromised by the granting of a variance;
- e) The facts to support a Finding that the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Zoning By-Laws; and
- f) Any other information pertaining to the variance which is the subject of the petition.

In the case of a **Special Permit**, the following points, based on Massachusetts General Laws, Chapter 40A, Section 9, should be identified and factually supported on or with the petition form and verbally at the hearing:

- a) The particular type of Use proposed for the Land or Structure, if any;

- b) The conditions and character of operations of the proposed Use which show that it will be in harmony with the general purpose and intent of the District and the By-Laws; and
- c) The nature of the proposed Use in relation to both the general and specific provisions of the By-Laws governing that Use and the District it is located.

In the case of an **Appeal**, the following points, based on Massachusetts General Laws, Chapter 40A, Section 8, should be identified and factually supported on or with the petition form and verbally at the hearing:

- a) The grounds for the appeal;
- b) Supporting documentation relative to the nature of the Appeal; and.
- c) Note: In the case of an Appeal from the action or failure to take action by the Building Commissioner, the appeal shall be filed with the Town Clerk within thirty (30) days from the date of issuance of a Permit or denial of a Permit by, or an Order, ruling, decision, or determination of, the Building Commissioner.

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**Failure to present evidence in one or more of the foregoing areas may result in the petition being denied by the ZBA. The ZBA cannot draw from the petitioner the necessary evidence to grant the petition if improperly presented.**

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**ZONING BOARD OF APPEALS**  
**Petition Process**

**Petition Submittal**

The process for filing a petition and appearing in front of the Zoning Board of Appeals (ZBA) is as follows:

The Petitioner shall file the Petition for an **Appeal**, a **Variance** or a **Special Permit** with the ZBA, which will then review the Petition, and if complete, shall transmit a copy forthwith to the Town Clerk. The Petition shall consist of the completed Petition form, plot plan, area map, and other documentation as necessary to support the petition, as well as the appropriate fees. Incomplete petitions shall be returned to the petitioner.

In the case of an **Appeal** from the action or failure to take action by the Building Commissioner, the appeal shall be filed with the Town Clerk within thirty (30) days from the date of issuance of a Permit or denial of a Permit by, or an Order, ruling, decision or determination of, the Building Commissioner.

**Notice and Hearings**

Notice of ZBA hearings shall be advertised as required by the provisions of Massachusetts General Laws, Chapter 40A, Chapter 11:

Notice shall be given by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the town hall for a period of not less than fourteen days before the day of such hearing. Notice shall be sent by mail, postage prepaid to the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the property affected.

Hearings of the ZBA shall occur as necessary at times determined by the Board, in the Hearing Room in the Town Hall or any other place specified in the meeting notice. Frequency of hearings depends on the number and type of petitions on file. Typically the ZBA meets monthly in an evening session.

All hearings shall be open to the public. No person shall be excluded unless they are considered by the chairperson to be a “serious hindrance” to the workings of the Board.

The Petitioner may appear on their own behalf, or be represented by an agent or attorney. In the absence of any appearance without due course on behalf of a Petitioner or the owner of the property affected, the Board will deny the Petition.

**Order of Business:**

The Hearing for each petition shall be conducted as follows:

- a) Opening of the Public Hearing
- b) Reading of the petition legal notice by the Chairperson;

- c) Presentation by Petitioner;
- d) Presentation(s) by those in support of the Petition;
- e) Presentation(s) by those in opposition to the Petition;
- f) Questions by those seeking information;
- g) Rebuttal by Applicant, restricted to matters raised by opponent's objections;
- h) ZBA members hearing the case may direct appropriate questions during the hearing;
- i) Closure of the Public Hearing
- j) Deliberation and determination of findings by the ZBA.

### Filing of Decision

After deliberation, the ZBA will reach a decision. The decision requires a favorable vote of at least four members of the ZBA to grant the petition. If the decision is to grant the petition, the ZBA shall issue a copy of its decision to the owner and to the petitioner, if other than the owner, setting forth compliance with the statutory requirements for the issuance of such variance or permit and certifying that copies of the decision and all plans referred to in the decision have been duly filed.

The variance or permit shall take effect after a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Town Clerk's Office.

If the decision is to deny the petition, the decision is filed in the Town Clerk's Office. Re-**SUBMISSION** of the same petition is then precluded from occurring for two years, per M.G.L. Chapter 40A Section 16.

**In cases where an appeal is made to the ZBA under G.L. c. 40A Section 8, other rules apply. See M.G.L Chapter 40A Section 15.**