



TOWN OF WESTWOOD ZONING BOARD OF APPEALS

Information and Instructions for Applications for Appeals, Special Permits and Variances

All applications to the Board of Appeals will be acted upon. Because of several legal requirements, all information must be complete and correct to the best of the Applicant's knowledge. Incomplete applications cause delays and may be deemed invalid and rejected in accordance with the Westwood Board of Appeals Rules of Procedure on file with the Town Clerk.

If you have any questions regarding the Board's procedure, please contact the Zoning Board Administrator, Louise Rossi, at (781)-251-2598. All legal questions must be directed to your own legal counsel.

This process has time constraints under Massachusetts General Laws Chapter 40A. It will take a minimum of three months to complete the process.

Massachusetts General Laws, Chapter 40A and the Westwood Zoning Bylaw provide that the Zoning Board of Appeals shall have the power to hear and decide applications for Special Permits and Variances. Below is a brief description of the three types of appeals:

Appeals: - these applications are usually based on the decision of the Building Commissioner, i.e., the denial of a building permit or persons aggrieved by the granting of a permit. An appeal per Mass. G.L. Ch. 40A, Section 8, shall be taken within thirty (30) days from the date of the order or decision being appealed. (Refer to Mass. G.L. Ch. 40A, Section 15.)

Special Permits: - are for certain types of uses that are authorized in Westwood only by the issuance of such Permits.

Variances: - are petitions for relief from the Westwood Zoning Bylaw.

Before granting either a Special Permit or Variance, the law requires that the Board must find, in its judgment, that all of the conditions listed in Appendix A – Variance Worksheet or Appendix B – Special Permit Worksheet are met. A failure to find any one of the conditions maybe fatal to the application.

The Zoning Board of Appeals strongly recommends that the Applicant review each of these conditions in the appropriate Appendix before applying for a Special Permit or Variance. The Applicant should be prepared to discuss how each of these conditions is met.

NOTE: The enclosed worksheets and instructions are supplied for informational purposes only and are not intended to replace sound legal advice. The Applicant is encouraged to confer with counsel of his/her choice regarding the requirements for the issuance of a Special Permit or Variance.

TOWN OF WESTWOOD

The Zoning Board Application Process

1. Applicant requests Application for Hearing from the Zoning Board Administrator.
2. The Zoning Board Administrator will order a certified abutter's listing and place the legal notice of the hearing in the newspaper. This list contains the names and addresses of all abutters within 300 feet of the property listed on the application. This certified list is provided by the Assessor's Office and will be mailed out to the Applicant. One copy of this list must be included with the application packets.
3. The Applicant completes the Application and prepares **10 packages** to include the following documents:
 - **Application for Hearing** – which explains the exact nature of the application. State exactly what construction is being proposed and which type of permit is necessary. *For example: "We are applying for a Special Permit pursuant to Section 4.5.6 (Nonconforming Uses and Structures) to add a second story addition to our home in Residential E District."*
 - **Variance/Special Permit Worksheet** – the Applicant should be able to address all questions
 - **Certified Plot Plan** - which should show the following on 11 x 17 paper -
 - i. Property address, map and lot number, zoning district and overlays such as wetlands
 - ii. Show well and septic locations (if applicable)
 - iii. Location of lot lines, dimensions of lot, frontage
 - iv. Location and dimensions of public easements, public utility easements, railroad right-of-ways and established zoning setback requirements
 - v. Location and dimensions of primary and accessory buildings and structures
 - vi. All proposed changes must be shown in RED on the plot plan on all 10 copies
 - **Building Plans** - must show existing and proposed exterior elevations and all plans must be reduced to 11 x 17 size paper.
 - i. Front, rear and side elevations, heights
 - ii. Location and dimensions of windows and doors
 - iii. Show exterior stair locations and dimensions
 - iv. Floor Plans
 - v. Is the building hooked to sewer or septic?
 - **Copy of the Building Commissioner's Denial of a Building Permit**
 - **(1) Copy of the Certified Listing of Abutters** provided by the Assessors' Office
4. The Applicant files the ten (10) application packets with the Town Clerk's Office and pays the Town Collector the filing fee.
5. Once the application is filed with the Town Clerk's office, the Zoning Administrator will set up the hearing within the time requirements of the Massachusetts General Laws, Chapter 40A.

Hearings and Decisions

Hearing – the applicant attends the hearing and presents his/her application before the Board of Appeals.

The Board will review the application, and depending on the case and circumstances, close the hearing that evening or request a further continuance. Deliberation on the application may take place immediately after the close of the hearing or at the next scheduled meeting of the Board. Decisions will be completed in accordance with Massachusetts General Law requirements.

The Board needs a unanimous three- member vote to approve an application. The Board will prepare a written decision and file with the Town Clerk which starts a 20 day appeal period in accordance with Massachusetts General Law.

After the statutory appeal period - on the 21st day, the Applicant must:

- Certify the Decision with the Town Clerk's office that the appeal period has elapsed and no appeal thereof was taken.
- File the certified, stamped Decision with the Norfolk County Registry of Deeds in Dedham and return three copies of the receipt from the Registry of Deeds to the Town Clerk.
- Re-apply with the Building Department for a Building Permit.

Time Requirements for Hearing under the Zoning Act Massachusetts General Laws, Chapter 40A

For Special Permit Applications: The Zoning Board of Appeals shall hold a public hearing on any application for a special permit within sixty-five (65) days from the date of filing of such application. The decision of the special permit granting authority shall be made within ninety (90) days following the date of such public hearing. The decision is then filed with the Town Clerk's Office for a twenty (20) day appeal period.

For Variance Applications: The Zoning Board of Appeals shall hold a public hearing on any application for a variance within sixty-five (65) days from the date of filing of such application. The decision of the Board shall be made within one hundred (100) days after the date of the filing of a variance. The decision is then filed with the Town Clerk's Office for a twenty (20) day appeal period.

For Appeals: The Zoning Board of Appeals shall hold a hearing on any appeal, application or petition within sixty-five (65) days from the receipt of notice by the Board of such appeal, application or petition. The decision of the Board shall be made within one hundred (100) days after the date of the filing of an appeal, application or petition. The decision is then filed with the Town Clerk's Office for a twenty (20) day appeal period.

Special Permit – Water Resource Protection Overlay District (Section 9.3)

- 9.3.8 **Application.** Application for a special permit in a WRPOD shall include the following:
- 9.3.8.1 The written opinion of a Registered Professional Engineer, addressed to the Board of Appeals, as to the impact of the proposed use upon the existing and potential groundwater supply and groundwater recharge areas within the known aquifers of the Town. This opinion shall bear the stamp and signature of the Professional Registered Engineer responsible for its preparation;
 - 9.3.8.2 Complete listing of toxic or hazardous materials which are to be:
 - 9.3.8.2.1 stored, manufactured or used on or transported over any land in the WRPOD in such a quantity that the use, spilling or discharge thereof might cause a danger to public health or safety; and/or
 - 9.3.8.2.2 contained in industrial wastewater or sewage generation in excess of six (6) gallons per day per one thousand (1,000) square feet of lot area or fifteen thousand (15,000) gallons per day total. Such listing shall be accompanied by a description of measures to prevent vandalism, spills, corrosion and leakage and by a spill control plan;
 - 9.3.8.3 Description of any hazardous or toxic waste to be generated;
 - 9.3.8.4 Such further description of the proposed use and its operation as necessary to demonstrate that the use is not prohibited by this Section and will be in compliance with each of the requirements set forth herein;
 - 9.3.8.5 Evidence of conformity with applicable requirements of the Massachusetts Department of Environmental Protection and of Town Bylaws and regulations, such as Article 17, the Hazardous Materials Bylaw;
 - 9.3.8.6 Locus plan at an appropriate scale showing the boundaries of the property subject to the application in relation to the WRPOD boundaries; and
 - 9.3.8.7 Site plan, if required by the Board of Appeals.
- 9.3.9 **Referral of Application to Other Boards.** Within ten (10) days after receipt of the WRPOD special permit application, the Board of Appeals shall forward a copy thereof to the Building Inspector, Dedham-Westwood Water District, Planning Board, Conservation Commission, Board of Health and Fire Chief which may, at their discretion, conduct such investigations as they deem to be appropriate and report in writing their recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from said review agencies or until thirty-five (35) days has elapsed after receipt of such application without submission of a report. If such report is not received by the Board of Appeals within said thirty-five (35) days, it shall be deemed lack of objection to the issuance of the special permit.

Special Permit – Earth Material Movement (Section 7.1)

- 7.1.2 **Application Requirements.** An application for a special permit for earth material movement shall be accompanied by a site plan and all other application materials required by the rules and regulations of the board of Appeals or Planning Board. The site plan shall be prepared by a Registered Land Surveyor or Registered Professional Engineer and shall include the following information:
- 7.1.2.1 existing topographical contours of the subject land shown at two (2) foot intervals;
 - 7.1.2.2 existing topographical contours of adjacent land shown at two (2) foot intervals, if available;
 - 7.1.2.3 topographical contours as proposed after completion of the operation;
 - 7.1.2.4 proposed lateral support to adjacent properties;
 - 7.1.2.5 proposed drainage and soil erosion prevention measures;
 - 7.1.2.6 quantity and composition of earth material to be exported, imported or regraded;
 - 7.1.2.7 other information necessary to indicate the complete physical characteristics of the operation.
- 7.1.3 **Referral of Application to Planning Board.** Within ten (10) days after receipt of the application, the Board of Appeals shall transmit a copy thereof to the Planning Board, which said Board may, at its discretion, investigate the case and report in writing its recommendations to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a report thereon from the Planning Board, or until said Planning Board has allowed thirty-five (35) days to elapse after receipt of such application without submission of a report.

When applying for a Special Permit under either Section 9.3 or Section 7.1, please make sure that you and/or your attorney refer to the specific bylaws regarding these sections.

WESTWOOD BOARD OF APPEALS
APPLICATION FOR HEARING

1. Name of Applicant or Appellant: _____

2. Mailing Address of Applicant: _____

3. Telephone - Home: _____ Business: _____

4. Address/Location of Property to be Subject of Hearing: _____

5. Owner of Property & Mailing Address: _____

Telephone - Home: _____ Business: _____

6. Deed Recorded in:

- Norfolk County Registry of Deeds: Book # _____ Page # _____
- Registry District of the Land Court: Certificate # _____ Book # _____ Page # _____

7. Has the lot been surveyed by a Registered Land Surveyor? _____

8. Has any application or appeal ever been filed with the Board of Appeals on this property?
If yes, when: _____

9. Applicant is: (check) Owner _____ Tenant _____ Licensee _____ Abutter _____
Prospective Purchaser _____ Other _____

10. Nature of Application: (check)

- _____ a. Appeal in accordance with Mass. G. L. Ch. 40A, Sec.8 as amended.
- _____ b. Special Permit in accordance with Mass. G.L. Ch. 40A, Sec.9 as amended.
NOTE: If Special Permit is under Section 9.3 – Water Resource Protection Overlay District and/or Special Permit is under Section 7.1 – Earth Material Movement, see pages 4 & 5 for requirements
- _____ c. Variance in accordance with Mass. G. L. Chapter 40A, Sec.10 as amended.

11. State the EXACT NATURE (see Instructions) of this application including the applicable section number(s) of the Westwood Zoning Bylaw:

I hereby request a hearing before the Westwood Board of Appeals with reference to the indicated application or appeal.

I am aware that the **cost of advertising** will be billed to me directly as the applicant, by the newspaper at a later date. I am also aware of the provisions in the Zoning Bylaw with regard to **Reimbursement for Consultants**, and I agree to reimburse the Board of Appeals and the Town of Westwood for all costs incurred by the Town or its' Boards for all fees, expenses and costs in connection with the review and evaluation of the Application for Special Permit and/or Variance.

I have reviewed the Zoning Board of Appeals Instructions and Information and understand the time requirements.

Signed: _____ Date: _____
 APPLICANT'S SIGNATURE (or Agent)

Signed: _____ Date: _____
 PROPERTY OWNER (if different from applicant)

Complete the following checklist. You must make 10 sets of the application and enclosures:

- 10 copies of the Application
- 10 copies of the Certified Plot Plan – reduced no smaller than 11 X 17
- 10 copies of the Building Plans or Footprint – reduced no smaller than 11 x 17
- 10 copies of the Interior Floor Plans – reduced no smaller than 11 x 17
- 10 copies of the Building Inspector's Denial of a Building Permit
- 1 copy of the list of abutters certified by the Board of Assessors
- Check for the filing fee in the correct amount

SCHEDULE OF FILING FEES

Number of Abutters	1-50	51-100	More than 100
Residential	\$150.00	\$185.00	\$200.00
Business	\$300.00	\$355.00	\$400.00
Flexible Development	\$500.00	\$555.00	\$600.00
Elderly Housing	\$500.00	\$555.00	\$600.00
Grave Removal	\$500.00	\$555.00	\$600.00
Comprehensive Per.	\$2500.00	\$2555.00	\$2600.00

APPENDIX A

Variance Conditions and Worksheet

1. The Variance must be with respect to particular land or structures.

Parcel of Land:

Structures:

2. There must be circumstances relating to soil conditions, shape, and 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.

Circumstances would be:

3. Literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

Hardship would be:

4. Desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such bylaw.

Relief would be:

Detriment would be:

Is it substantial?

Intent or purpose of Bylaw section?

Would the Variance nullify intent or purpose above?

Is there any substantial derogating (lessening of the intent or purpose) and if so, what is it?

APPENDIX B

Special Permit Conditions and Worksheet

1. The structure is in harmony with the general purpose and intent of the bylaw:

2. The structure is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district:

3. Adequate and appropriate facilities will be provided for the proper operation of the proposed structure:

4. The proposed structure will not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse material, visual or other nuisances:

5. The proposed structure will not cause undue traffic congestion in the immediate area:
