



TOWN OF NORFOLK

ZONING BOARD OF APPEALS

FACT SHEET

What are the differences between a Variance and a Special Permit?

Special Permits are issued to authorize specific uses within a zoning district after the weighing of the project with defined criteria pursuant to chapter 40A and the Town of Norfolk Zoning Bylaws. A use allowed by a special permit (see the Zoning Bylaws for a listing of the special permit uses for each zoning district) is a use that is not allowed as a matter of right because of its potential for incompatibility with the characteristics of the district. The special permit regulates the middle tier of uses that are so innocuous that they are allowed as a matter of right and those uses that are so offensive that they are prohibited. Special Permits are issued to the applicant for a specific use or activity and are not transferable.

Variations are issued to authorize a deviation from the dimensional zoning requirements applicable to structures and lots. According to M.G.L. variations are to be issued only sparingly and only if ALL the statutory prerequisites have been met. The Town of Norfolk does not authorize the granting of “use” variations, i.e. a use of land or structure other than those prescribed by the zoning bylaws. Variations run with the land and are not issued to the applicant.

What is the Filing Process??

An application form and instruction packet can be picked up from the Town Clerk’s office or the Zoning Board of Appeals office. The application form contains a checklist of information that is required to be submitted along with the application form. The applicant shall make nine (9) copies of the completed application along with 12 copies of the site plan and the required filing fee and submit all to the Administrative Assistant of the Board at the Town offices at One Liberty Lane during regular business hours. Upon acceptance of the application packets, the Administrative Assistant shall date stamp all copies and return two (2) copies to the applicant. The applicant shall forthwith bring these two copies to the Town Clerk who shall sign and date stamp the two copies. One of the copies will stay with the Town Clerk. The Town Clerk will forward the other stamped copy to the Zoning Board of Appeals office.

After the application, that was stamped by the Town Clerk, is received by the ZBA office, the application is prepared for submittal to the Board at the next monthly meeting, which in most cases is the 3rd Wednesday of the month. The application is previewed at that meeting and scheduled to be heard the next meeting. A summary of the timetable/schedule for applications is generally as follows:

- a. nine copies of application submitted to ZBA office. Two copies given to the Town Clerk who stamps both and forwards one copy to the ZBA office
- b. application previewed by Board at earliest meeting – application is scheduled for public hearing the following month on the 3rd Wednesday.
- c. ZBA office prepares Notice of Hearing, which appears in local newspaper for two consecutive weeks (the week of the public hearing does not count).
- d. ZBA office notifies all abutters within 300 feet of the property on which the project is located at least 10 days prior to the public hearing
- e. After the closing of the public hearing, the Board deliberates and votes on the case. (this may or may not be the same evening depending on the number of public hearings and other business at hand).
- f. The Board must issue its decision in writing within 14 days of the vote and mail decision to applicant and abutters
- g. There is an appeal period of 20 consecutive days starting with the first day after the stamping of the decision by the Town Clerk for the applicant or abutter to appeal the Board's decision to Superior Court in accordance with M.G.L. chapter 40A, section 17
- h. If no appeal has been filed in the office of the Town Clerk within the 20-day appeal period, the applicant retrieves the original decision of the Board from the Town Clerk's office and records the decision at the Registry of Deeds.
- i. Proof of recording the special permit or variance must be forwarded to the Building Commissioner if an application is made for a building permit.
- j. A building permit, if applicable, must be applied for within one year of the issuance of a special permit or variance or said permit will lapse.

How long does it take from filing an application to receiving a Special Permit decision?

It depends on the complexity of the project and when all the information required by the Board is received from the applicant. The Board has state mandated times in which to issue decisions. Below is the statutory timeline for the **Special Permit** process:

- A. The ZBA must open the public hearing within 65 days of the filing of the Special Permit application**
- B. The ZBA must render a decision within 60 days of the closing of the public hearing**
- C. The ZBA must file its decision with the Town Clerk within 14 days after the vote of the Board** The applicant and abutters receive a written copy of the decision by mail.

- D. There is a 20 day appeal period after the decision has been issued by the Board and stamped by the Town Clerk

*** these time periods can be extended upon the request of the Board and concurrence of the applicant in writing.*

How long does it take from filing an application to receiving a Variance decision?

It depends on the complexity of the project and when the information required by the Board is received from the applicant. The Board has state mandated times in which to issue decisions. Below is the statutory timeline for the **Variance** process:

- A. The ZBA hears the Variance case within 65 days of filing the application with the Town Clerk **
- B. The ZBA renders a decision within 100 days of the filing date of the Variance application **
- C. The ZBA must file its decision with the Town Clerk within 14 days of the vote of the Board.** The applicant and abutters receive a written copy of the decision by mail
- D. There is a 20 day appeal period after the decision has been issued by the Board and stamped by the Town Clerk

***these time periods can be extended upon the request of the Board and the concurrence of the applicant in writing.*

How long does it take to file an Appeal of the Building Commissioner's decision with the Zoning Board of Appeals?

The Board has state mandated time frames to issue a decision on any appeal of the Building Commissioner's decision:

- A. The applicant must file the Appeal application with the Town Clerk within 30 days of the decision of the Building Commissioner along with the applicable fee.
- B. The ZBA must conduct a public hearing within 65 days of Appeal being stamped by the Town Clerk**
- C. The ZBA must render a decision within 100 days of the filing date of the Appeal**
- D. The ZBA must file its decision with the Town Clerk within 14 days of rendering its decision**
- E. There is a 20-day appeal period after the decision has been issued by the Board and stamped by the Town Clerk.

***these time periods can be extended upon the request of the Board and the concurrence of the applicant in writing.*

What is the criteria used by the ZBA in considering the granting of a Special Permit?

The criteria for the granting of Special Permits is determined by state statute and the local bylaw. Unless specifically provided to the contrary, the Board must make a finding that all of these Special Permit criteria are met:

- A. The use is in harmony with the general purpose and intent of the bylaw;
- B. The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district;
- C. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;
- D. The proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials, visual or other nuisances.
- E. The proposed use would not cause undue traffic congestion in the immediate area;
- F. The proper number of site plans has been filed for approval with the Planning Board and the proper number of copies have been submitted with the application for the special permit; and
- G. The use and/or purpose is consistent with the 1992 Master Plan, as most recently updated.

What is the criteria used by the ZBA in considering the granting of a Variance?

The criteria used by the Board in consideration of the granting of a Variance are set forth in Section 10 of Chapter 40A of M.G.L., as may be amended from time to time. The four criteria listed below must all be met. The failure to meet ALL of the criteria shall cause the Variance to be denied.

- A. The Variance must be with respect to particular land or structures
- B. There must be circumstances relating to 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
- C. Literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner (hardship must not be self-created)
- D. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.

What is the filing fee for an application to the Zoning Board of Appeals?

Fees per hearing are as follows:

Special Permit	\$300.00
(plus \$50 per each additional special permit request pertaining to the same site)	
Variance	\$300.00
(Plus \$50 per each additional variance request pertaining to the same site)	
Special Permit and Variance	\$400.00
(plus \$50 for each additional special permit or variance request pertaining to the same site)	
Wetland or Watershed Special Permit	\$300.00
Addendum or changes/Relief from conditions	\$300.00
(hearing is advertised in newspaper)	
Appeal of Building Inspector Decision	\$300.00
Extensions of Special Permit or Variance	\$ 50.00
Renewal of Special Permit	\$100.00
(unadvertised)	
Repetitive Petitions	\$220.00
Comprehensive Permit	\$1080.00
(plus \$220.00 per unit) (see ZBA Rules and Regulations for filing a comprehensive permit)	

Please note: In addition to the application fee, the applicant will be required to reimburse the Town for any and all costs incurred by the Town to have an engineer/consultant review the proposal, as deemed necessary by the Zoning Board of Appeals.

Copies of the Norfolk Zoning Bylaws can be purchased from the Town Clerk. A copy of the Norfolk Zoning Bylaws can be reviewed at the Zoning Board of Appeals office and the office of the Building Commissioner.

REVISED: MAY 13, 2003

