



**Town of Westminister
Zoning Board of Appeals**

Application for Public Hearing

No.

Date Filed:

Hearing Date:

Step One: Seek Determination from the Building Commissioner. Before you apply to the Zoning Board, you must discuss your plans or situation with the Building Commissioner (Westminister Town Hall, Room 211). The Building Commissioner will review your plans and provide you with a written determination that specifies the type of relief you need to seek from the Zoning Board. Use the Building Commissioner's letter to complete the following:

Type of Relief you are seeking:

- | | | | |
|--------------------------|----------|--------------------------|----------------|
| ☐ | Variance | ☐ | Special Permit |
| ☐ | Finding | ☐ | Appeal |
| ☐ | Other | | |

Step Two: Fill out your application and assemble the necessary information.

Applicants must submit one original application packet and 14 copies. Each application packet must contain the following items:

- _____ Copy of the completed ZBA Application.
- _____ Copy of the deed for the subject property and any plans recorded at the Registry of Deeds.
- _____ Copy of the abutters list prepared by the Westminister Assessor's office.
- _____ Copy of the Assessor's map highlighting the subject property.
- _____ Copy of the certified plot plan, or tape survey, for the subject property.
- _____ Copy of the construction plan/site plan (see guidance inside).
- _____ Letter from the Building Commissioner indicating the type of relief needed from the Zoning Board.

- _____ Copy of any paperwork and materials submitted to the Building Commissioner.
- _____ Sign-off from Treasurer-Collector's office that the subject property is not on the Town's Delinquent Tax List_____.
- _____ Check covering application fee made payable to: Town of Westminster.

Helpful information, but not required:

- _____ Copy of the architectural renderings for new buildings and/or additions (see guidance at the end).
- _____ Digital photographs of the existing building (JPEGs or PDFs).

Step Three: File your Application with the Town Clerk

Town Clerk

Date Submitted

APPLICATION FOR HEARING – ZONING BOARD OF APPEALS

(This form to be filed with Town Clerk)

Request is for: (check all that apply)

____ Variance ____ Special Permit ____ Appeal ____ Finding ____ Other

Property Information

1. Location of Property: Street Address _____

Tax Map # _____ Parcel # _____ (see Town Assessor)

Deed Book # _____ Page # _____ attach copies –
(contact Worcester Northern District Registry of Deeds
Tel: 978-342-2132)

Plan Book # _____ Page # _____ attach copies –
(contact Worcester Northern District Registry of Deeds
Tel: 978-342-2132)

Zoning District(s): _____ (found in Building Commissioner's letter)

2. Check with the Town Clerk to determine if the property listed in the application has been the subject of a prior application, petition or appeal. If yes, please describe the case and the dates thereof and attach a copy of any decision issued in connection with the above.

3. Name of Petitioner(s): _____

Owner/ Tenant/ Agreed Purchaser/ Other (circle one)

Address: _____

Telephone #: (____) _____ Email: _____

4. Name of Presenter(s): _____

Address: _____

Telephone #: (____) _____ Email: _____

5. Name of Owner(s) of Property: _____

Address: _____

Telephone #: (____) _____

6. Property Owner's Knowledge and Consent

I (we) have knowledge of, and consent to, the application for the project as presented.

Signature of Property Owner Date

Please Print Name

Project Information

1. Explain what you want to do or construct, and state which provision(s) of the Zoning Bylaw requires you to obtain a Finding/Variance and/or Special Permit in order to do it:

A. If seeking a Variance: you must provide all of the following information:

1. Specifically, what are the soil conditions, shape or topography of your lot or structure which especially affect this lot, as distinguished from other lots in the zoning district in which it is located?

2. What is the hardship which is caused by the factors listed above?

3. What facts will support a finding that the relief sought will not constitute substantial detriment to the public good?

4. What facts will support a finding that the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw?

B. If seeking a Special Permit, you must provide all of the following information:

1. Explain how the proposal is in substantial harmony with the Westminster Master Plan and other plans approved or amended from time to time by the Westminster Planning Board, and with the purposes of the Zoning Bylaw:

2. Explain how the use request is appropriate on the site in question:

3. Explain how the use will not be unduly detrimental to the health, safety, morals or welfare of the community or neighborhood by reason of noise, traffic, pollution, or demand on community facilities or utilities:

C. If seeking a Finding, you must provide all of the following information:

1. Explain how the proposed alteration or addition will not increase the amount of the Zoning nonconformity.

2. If the Board finds that the proposal *will* increase the amount of the nonconformity, explain how the proposal is not substantially more detrimental to the neighborhood than the lawful pre-existing nonconforming structure.

D. Appeal

1. State the specifics of the appeal.

This page is to be completed on the day of filing your application with the Town Clerk.

OFFICE OF THE TOWN CLERK

Date: _____

Application submitted by: _____
(Name)

Applicant's Phone #: _____

Applicant's E-Mail: _____

Application for Zoning Board of Appeals hearing, including a list of abutters from the Board of Assessors and filing fee of \$ _____ received on this date.

Town Clerk

GUIDELINES FOR APPLICANTS

All applications must include enough information and detail to allow the Board to evaluate your request and make an informed decision. Professionally drawn plans and renderings are preferred. The distance and dimension calculations contained in said plans eliminate the risk of any inaccuracies that might occur in hand drawings. However, the Board recognizes that such professional plans can be expensive. Even though they will be required by the Building Commissioner when you apply for a Building Permit, the preparation costs will be lost if your petition is not approved. The Board may be able to act on your petition based upon your home drawings, but with dimensional issues, you run the risk that the scale and dimensions that the drawings represent prove to be inaccurate in the formal building plans. If the Board cannot act favorably on your petition based on the documentation presented, the Board may deny the request or may require you to submit professional plans, thereby delaying your hearing.

Note that lot layouts, dimensions and building placement shown on Town Assessor maps are not necessarily accurate.

Plot plans or tape surveys done by surveyors for property transfers and mortgage transactions are used to show the location of structures on the property to verify that there are no boundary line encroachments. They are not as accurate as full surveys, but are more accurate than Town Assessor maps.

Recorded plans in the Registry of Deeds are generally full survey plans showing accurate boundaries. They do not always show the structures on the property. If they do, the location of those structures may not have been set by survey and may only be approximations.

Any plans submitted as part of your application must be drawn to scale and include at a minimum the following information:

1. Perimeter of subject property with distances and directional references.
2. Bounding streets and rights of ways.
3. Dimensional layout of all existing and proposed buildings/additions.
4. Lot line setback distances for all existing and proposed buildings/additions.
5. North arrow and plan scale.

If submitting architectural renderings for new buildings and/or additions, said renderings should depict the new building/addition as it would be seen from street level, include dimensions for height, width and depth, as well as specify the building materials to be used and the proposed color scheme.

TYPES OF APPEALS HEARD BY THE ZONING BOARD

1. VARIANCES

Variances shall be granted only in cases where the Board finds that the petition meets all of the following criteria:

- A. A literal enforcement of the applicable provision of the Zoning Bylaw would involve substantial hardship, financial or otherwise, but not of a personal nature, to the petitioner or appellant;
- B. The hardship is owing to circumstances relating to soil conditions, shape or topography of the land or structures, affecting only the subject land or structures but not affecting generally land or structures in the same zoning district; and

C. The relief sought may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

PLEASE NOTE THE FOLLOWING:

1. The size of the subject lot, in and by itself, is not relevant;
2. Financial hardship, which is not caused by any of the above-stated factors, is not relevant; and
3. An increase in the value of your property may not be used as a fact to support the requested relief.

2. SPECIAL PERMITS

A. A Special Permit may be issued only for uses which are in harmony with the general purpose and intent of the Zoning Bylaw provided that:

1. The proposal is in substantial harmony with the Westminster Master Plan and other plans approved or amended from time to time by the Westminster Planning Board, and with the purposes of this bylaw;
2. The use request is appropriate on the site in question;
3. The use will not be unduly detrimental to the health, safety, morals or welfare of the community or neighborhood by reason of noise, traffic, pollution, or demand on community facilities or utilities.

3. APPEALS

A. The Zoning Board will hear and decide appeals by:

1. Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provision of M.G.L. C.40A;
2. The Montachusett Regional Planning Commission; or
3. Any person, including an officer of a board of the town or of an abutting city or town, aggrieved by an order or decision of the Building Inspector or other administrative official in violation of any provision of M.G.L. C.40A or of the Town of Westminster Zoning Bylaw.

4. FINDINGS

A. Massachusetts General Law, Ch. 40A, Section 6 states that the Zoning Bylaw does not apply where the alteration of a one or two-family house does not "increase the nonconforming nature" of the structure. In Westminster, the Building Commissioner refers these requests to the Zoning Board of Appeals for a Section 6 Finding. If the Board finds that the proposal will result in additional nonconformities, the Applicant has the option of filing an application for a Variance.

1. If the proposed expansion is within the footprint of a lawful, pre-existing nonconforming structure, the Applicant must convince the Board that the proposed alteration or addition will not increase the amount of the nonconformity. In such cases, the Board may find that the proposed alteration or extension does not increase the nonconforming nature of said structure.

2. If the Board finds that the proposal *will* increase the amount of the nonconformity, the applicant must convince the Board that the proposal is not substantially more detrimental to the neighborhood than the lawful pre-existing nonconforming structure.

THE HEARING PROCESS

Scheduling the Hearing - The Board of Appeals will schedule a public hearing of the petition once it has been filed with the Office of the Town Clerk and the requisite fees have been paid. In addition to the petitioner, all abutters will be notified of the hearing and will be given an opportunity to comment on the petition at the hearing. The Board will also hear from all other interested parties. As part of the public hearing, the Board may request comments from other town boards, officials, legal counsel or consultants.

Time Extensions - The Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application, and upon the expiration of the original time period, such rights may be re-established only after notice and a new hearing pursuant to MGL, Ch. 40A, §9.

Closing the Hearing and Issuing a Decision - Once the presentation has been made to the Board and all interested parties have been heard, the public hearing portion of the meeting will be closed and the Board will, at its option, discuss the petition at that time or postpone discussion until a later time or date. All discussions will be held at an open meeting; however, once the public hearing has been closed, no additional comments will be allowed from either the petitioner or the public unless clarification is requested by the Board.

Filing the Decision – State law requires that the Zoning Board file its DECISION with the Town Clerk by the following deadlines:

For a **VARIANCE** or **FINDING** = within one-hundred (100) days of filing the application with the Town Clerk. For a **SPECIAL PERMIT** = within ninety (90) days of the close of the public hearing.

The Appeal Period - Once the decision is filed with the Town Clerk, and a 20-day appeal period begins. After the 20 day appeal period, you should check with the Town Clerk to learn whether any appeals were filed. If an appeal was filed, you should check with an attorney regarding what to do next.

Recording the Decision – Once the appeal period has passed, the applicant must record the decision with the Worcester Northern Registry of Deeds. After the decision has been recorded, the applicant shall provide a copy of the recorded decision to the Town Clerk's Office that clearly indicates the Registry's Book and Page number for said decision. **NOTE:** The granting of your petition DOES NOT go into effect until the decision has been recorded with the Registry of Deeds.

Expiration of Decision: In the event you are ultimately granted a Special Permit or a Variance, please be aware that the rights authorized by the Special Permit or Variance will lapse if they are not exercised by the following deadlines:

For a **VARIANCE** = within one (1) year of the date of filing the Decision with the Town Clerk.

For a **SPECIAL PERMIT** = within two (2) years of the date of filing the Decision with the Town Clerk.



TOWN OF WESTMINSTER

11 SOUTH STREET
Westminster, MA 01473

Board of Zoning Appeals

REVISED FILING FEES-EFFECTIVE JULY 1, 2014

RESIDENTIAL USES: \$300.00

RI-RII-RIII Zones

Excluding all subdivisions and cluster developments

SUB-DIVISIONS AND CLUSTER DEVELOPMENTS

\$1,500.00, plus \$150.00 per unit for every unit over ten (10)

COMMERCIAL

\$1,500.00 for each single structure

INDUSTRIAL

\$1,500.00 for each single structure

COMPREHENSIVE PERMITS-40B

\$2,000.00, plus \$200.00 per unit for every unit over ten (10)

WIRELESS COMMUNICATIONS TOWERS & FACILITIES

\$2,500.00