

## Procedures/Information in Applying for a Zoning Board of Appeals (ZBA) Hearing

1. Building Dept. and/or official Board/Administrator – The applicant must fill out a Building Permit Application Form (if applicable). The Building Inspector and/or city official/Administrator will review your proposal and will deny said proposal. Only after a **written** denial can you apply for a hearing before the Zoning Board of Appeals. By law, a ZBA application must be filed within **30 days** of the date of the denial decision. The “decision” refers to the decision made by an administrative office, usually the Building Inspector, with reference to a permit or other zoning enforcement action.
2. **Application Form** – Application for a Hearing – Fill out the application form and return to the Zoning Board’s secretary. A filing fee is involved, as noted on the application. Make check **payable to the City of Marlborough**. (Attach a copy of the denial letter from the Building Inspector and/or city official/administrator.)
3. The secretary will place two (2) legal ads in the Metro West Daily or the Marlborough Enterprise Weekly newspaper. The applicant is responsible for the payment of the two (2) legal ads which is billed directly by the newspaper to the applicant.
4. **Abutters Notification** - The secretary will mail to the applicant a recent certified list of abutters generated from the Assessor’s Office, along with the Notice of Hearing to be mailed to the abutters.
5. The Applicant (or their agent or representative) is **responsible** for sending (with confirmation of delivery) copies of the notice of the hearing to all of the abutters on the certified abutters list at least two weeks (14 days) prior to the hearing date. Documentation of this mailing and/or delivery receipts for the abutter notices must be submitted to the Zoning Office prior to the hearing. Types of proof of mailing: Certified Mail or Certificate of Mailing.
6. **Plan submittal:** See application form regarding plan submittal.
7. After the hearing has taken place, it will be approximately fourteen (14) days before the Board’s decision is filed with the City Clerk. The date of this filing is the official date of the decision. A **copy** of the filed decision will be mailed to the Applicant and to the abutters by the Zoning Board Secretary. (Note: This is not the recordable copy that you take to the Registry of Deeds)
8. There is a twenty (20) day appeal period that starts on the day after the decision is filed with the City Clerk. The appeal period must elapse before the City Clerk can certify the decision. During this appeal period, the Board’s decision may be appealed to the appropriate appellate body. If an appeal is made, the City Clerk cannot certify the decision until the appeal has been fully adjudicated.
9. After the Board’s approval of an Appeal has been certified by the City Clerk that the 20 day appeals period has ended, the City Clerk’s office will mail to the applicant a stamped original and this is what **the Applicant must take to the Registry of Deeds to have recorded on their deed.** Until this recording has occurred, the Appeal will not take effect. **Documentation of recording must be provided to the Building Dept. before a building permit will be issued.**

**Note:** The Zoning Board of Appeals normally meet on Tuesday evenings. There are no set dates as to when the Board meets, only when there are cases to be heard. When the Board’s secretary is provided with all the appropriate material for a hearing, it usually takes at least 25 plus days to schedule a hearing date.

## Guidelines

### Massachusetts General Laws Chapter 40A Section 10

1. In order for the Zoning Board of Appeals to legally grant a variance, **all three findings must be made**, i.e. the Board must find:
  - a. A substantial hardship "financial or otherwise
  - b. No substantial detriment to the public good
  - c. No substantial derogation from the intent and purpose of the zoning ordinance.

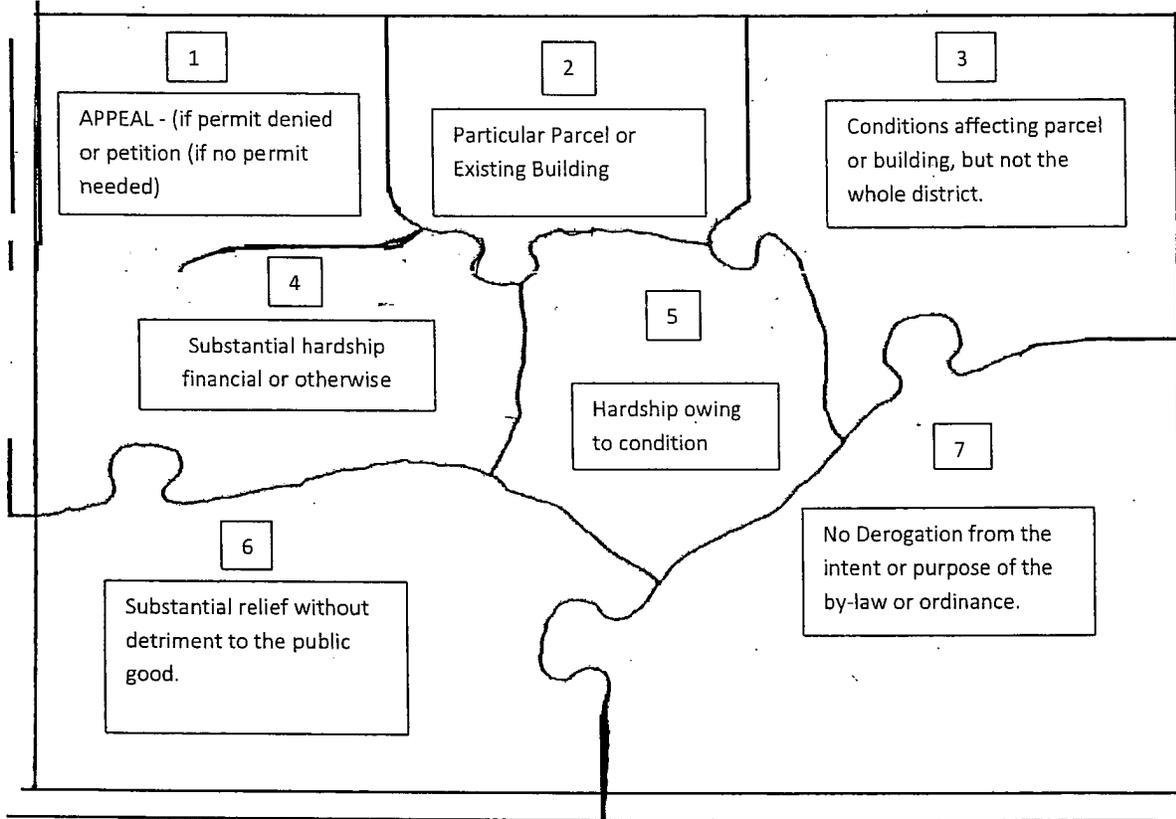
And that owing to the **soil conditions, shape or topography of the land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the ordinance would bring about item (1) above.**

2. Regarding the definition of "**Hardship**" once the above factors are considered, "financial" hardship can be used for a grounds of relief. However, the "financial hardship" to the applicants or owners of the land in question, must be as a result of its unique conditions, not just the applicant's or owner's financial status.
3. Rights authorized by a variance (if one is granted) must be exercised within 1 year of the date the vote is submitted to the City Clerk's Office of such variance or such rights shall lapse. However, the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercised of such rights for a period not to exceed six (6) months; and provided further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one (1) year period.

PLEASE KEEP FOR  
YOUR REFERENCE

## THE VARIANCE PUZZLE

YOU NEED ALL THE PIECES



**CITY OF MARLBOROUGH**  
**ZONING BOARD OF APPEALS**  
**Application for Variance or Appeal Hearing**

**Official Use :**

Date Received : \_\_\_\_\_ City Clerk's # \_\_\_\_\_ ZBA Case # \_\_\_\_\_

**Request for :**

Variance       Appeal

**Information :**

Property Address \_\_\_\_\_ Zoning District \_\_\_\_\_ Map# \_\_\_\_\_ Parcel# \_\_\_\_\_

Applicant is:  Owner     Tenant     Prospective Purchaser     Other \_\_\_\_\_

I am the owner of the property and I have knowledge of, and consent to, this application.

Owner's signature \_\_\_\_\_ Date \_\_\_\_\_

Owner's name \_\_\_\_\_ Address \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Phone# \_\_\_\_\_ E-mail \_\_\_\_\_

Applicant name \_\_\_\_\_ Address \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Phone# \_\_\_\_\_ E-mail \_\_\_\_\_

Representative Name: \_\_\_\_\_ Company \_\_\_\_\_

Address \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ Phone# \_\_\_\_\_ E-mail \_\_\_\_\_

Describe below what is being requested, such as what is the proposed action, relief, or construction on the property.

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Provide below all sections of the Zoning Ordinance (Chapter 650, Article(s), Section(s), Paragraph(s), Sub-section(s)) which are pertinent to the Variance (see denial letter).

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**Variance**

1. What is the soil condition, shape or topography of **YOUR** lot or structure which **DISTINCTLY** affects your lot, as distinguished from other lots in the zoning district which it is located.

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2. What is the **HARDSHIP** that is **CAUSED** by the soil condition, shape or topography of your lot or structure stated above. A **PERSONAL INCONVIENCE** is **NOT** a hardship. A hardship imposes a substantial financial penalty or directly affects your use of the land or structure as it is zoned.

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3. State how the variance you are requesting, if granted, will not nullify or detract from the intent or purpose of the Zoning Ordinance.

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4. State how the variance you are requesting, if granted, will not diminish the public welfare or well being.

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**Appeal**

State the specifics of the Appeal (use additional sheet if necessary).

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**Application Packet:**

The applicant shall submit ten (10) copies of the application packet which shall contain sufficient information to illustrate and defend the applicant's case and as a minimum shall consist of the following:

- Completed Zoning Board of Appeals Application Form
- Abutters List certified by the Assessor's Office
- Copy of denial letter from City Official
- Certified Plot Plan prepared and stamped by a Massachusetts Registered Professional Land Surveyor. A mortgage plan is **NOT** a certified plot plan. The certified plot plan shall include:
  - Plan Size 8 1/2" x 11" or 11" x 17"
  - Plans drawn to accurate scale with north arrow
  - Owner names and street addresses of directly abutting lots
  - Name of streets and zoning districts.
  - Bearing and distances of subject property
  - Dimensions and property line setbacks of all structures on subject property
  - Location of driveways, parking areas and other impervious surfaces on subject property
  - Location of walls, curbing, major landscaping, fences on subject property
  - Location of easements, wetlands and floodplains on subject property, if applicable
  - Dimensions and property line setbacks of all proposed work
  - Lot Coverage (area covered by all impervious surfaces) existing and proposed
  - Location and property line setbacks of structures, fences, driveways etc. on abutting lots that are within fifteen (15) feet of subject property lines
- Site plans of subject property showing topography and drainage structures, if regrading of the site or rerouting of runoff is proposed or if property is in Floodplain and Wetland Protection District.
- Architectural plans of new or modified building structure, if applicable.

**Filing Fee :**

Filing fees are based upon the proposed **USE** of the property:

- Residential Non--revenue bearing ..... \$130.00
- Residential Revenue bearing ..... \$250.00
- Business, Commercial or Automotive ..... \$375.00
- Industrial, Limited or Full ..... \$500.00

**Hearing Request :**

I hereby request a hearing before the Zoning Board of Appeals regarding this application packet and I am aware that two (2) legal ads will be placed in the MetroWest Daily News or the Marlborough Enterprise Weekly newspaper which will be billed directly to me or my representative. I am further aware that I am responsible for sending copies of the Notice of Hearing to all the abutters on the certified list at least fourteen (14) days prior to the hearing date and that I will submit the receipts confirming this mailing to the zoning office seven (7) days prior to the hearing. Finally, I am aware that I am required to record the board's certified decision and the certified plot plan with the Registry of Deeds in order for it to take effect.

Applicant's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

and/or

Representative's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

**Official Use Only:**

Received from applicant, the sum of \$ \_\_\_\_\_

Signature of the agent of the Zoning Board of Appeals:

\_\_\_\_\_  
Date: \_\_\_\_\_

Susan Brown - Board Secretary  
Department - Zoning Board of Appeals  
140 Main Street  
Marlborough, MA 01752  
Tel# 508-460-3768

Fax# 508-460-3747

E-mail: sbrown@marlborough-ma.gov

The date and signature of the agent of the Zoning Board of Appeals will serve as certification as to when the **COMPLETE** application packet accompanied by the proper filing fee was filed with this office.