

# **RULES OF THE MARION ZONING BOARD OF APPEALS**

One purpose of these published rules is to assist anyone who is an “interested party” in a request for a Variance or Special Permit. Whether he is a petitioner, or one living in the neighborhood, it would be helpful for that person to know how a Board of Appeals is required to operate.

The duties, responsibilities, and authority of the Board of Appeals are carefully spelled out in the Massachusetts General Laws, Chapter 40A and 40B and in the Town by-Laws.

Basically, the various laws recognize that the application of Zoning By-Laws may create special problems for some property owners, and requires that a Board of Appeals be set up to review these problems, and to grant relief if certain conditions are shown to exist.

There are two types of petitions:

## **1. *Special Permits:***

The Town By-Laws set up certain uses, which can be granted, provided that “The use involved will not be detrimental to the established or future character of the neighborhood and town, and subject to appropriate safeguards, if deemed necessary”. (An example would be a nursery school in a residential district).

## **2. *Variances:***

A variance can be granted only when the following conditions are shown:

- a) There are special conditions affecting a particular parcel of land that do not exist on other lots in the area.
- b) A hardship, financial or otherwise, exists.
- c) Relief can be granted without substantial detriment of the public good.
- d) Granting relief will not nullify or detract from the purposes of the Zoning By-Laws.

In order to help the Board of Appeals meet the responsibilities placed on it and to assist persons appearing before it either as petitioners or interested parties, the following rules have been adopted.

Applications should be obtained from the Zoning Board of Appeals Administrative Assistant. Applications shall state the reasons, fully and clearly, for the requested Variance, Special Permit, or for any other petition on which the Board of Appeals may act. The following illustrative material should be submitted with the completed application:

1. Seventeen (17) sets of drawings showing the configurations of the property to scale, and including dimensional data;
2. Seventeen (17) sets of drawings to show dimensioned location and outline of any structures existing on property or which are proposed; and,
3. Seventeen (17) sets of elevation and plan drawings of structures, which are subjects of the application, in sufficient detail to illustrate the intent of the application.

The required scaled, structural drawings may be prepared by a licensed general contractor. The site drawings are to be certified by a civil engineer. These drawings will be referred in any permits or variances granted so they should be of sufficient quality in the opinion of the Zoning Board of Appeals to obviate potential misunderstanding.

If real estate and/or land use is involved, the name and address of the owner of record should be given. If the petitioner is a lessee, prospective lessee or a prospective purchaser of the property, he must show bonafide evidence of the same, at the time of application and at the hearing.

In the case of absentee ownership, anyone claiming to represent the owner of the property must provide a certified letter stating same.

Proper identification of the property and list of abutters names and addresses of all persons whose property lies within 300 feet of the boundary lines of the parcel on which the appeal is being made, shall be supplied by the Town through the Assessor's office. Also, the petitioner shall furnish any plans, records or information pertinent to his request or as requested by the Board of Appeals.

The application forms and supporting information shall be returned to the Zoning Board of Appeals Administrative Assistant, where it will be assigned a Case Number, and a file will be established for a hearing.

The fee of \$300.00 for a basic, single resident, special permit, variance must be paid with the application. A separate fee of \$200.00 would later be required if there should be a modification or extension of the

application. Upon receipt, the original petition will be filed with the Town Clerk by the Secretary, prior to the advertising of a public hearing.

A notice of a public hearing shall be duly advertised in a newspaper in general circulation within the town in two successive weekly editions, the first publication to be made not less than fourteen (14) days prior to the hearing.

The petitioner, abutters and other interested parties shall be notified of the hearing by mail, as well as the Planning Board and the Zoning Boards of all abutting towns.

Hearings will be held within sixty-five (65) days after the filing of an application. Decision shall be made within ninety (90) days after the date of the public hearing. The decision will show the vote of each member and the reason or reasons for the decision. A copy of the records and decision shall be filed with the Town clerk and a notice of decision shall be mailed to interested parties, to petitioner and to all persons so requesting such notice at the hearing.

The petitioner or any interested party may appeal the decision of the Appeals Board to the courts within twenty (20) days after filing with the Town Clerk.

These rules are promulgated as required by the Massachusetts General Laws, Chapter 40A and 40B and will be amended as necessary to be consistent with the general laws and with the Zoning By-Laws of the Town of Marion. The purpose of these rules is to serve the townspeople by informing them of the nature of the Board of Appeals, its source of authority and its methods of operation.

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Amended 3/04/85  
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