

PROCEDURE FOR SPECIAL PERMITS, VARIANCES, OR APPEALS TO THE ZONING BOARD OF APPEALS

Section II

A. APPLICATION FORM

Every application for action by the Board shall be made on the official form. Any communication purporting to be an application shall be treated as mere notice of intention to seek relief until such time as it is made on the official application form. All information called for by the form shall be furnished by the applicant in the manner therein prescribed. The ZBA office can assist an applicant in obtaining information for the form.

B. FILING PERIOD

An appeal shall be filed within 30 days from the date of refusal of a permit, or the date of the order, ruling decision or determination of the Building and Zoning Inspector or other administrative official or Board.

The ZBA must hold a public hearing within 65 days of the filing date of an Appeal, request for a Variance, or request for a Special Permit. The ZBA must hold a public hearing within 30 days of the filing date for a request for a Comprehensive Permit.

C. INFORMATION TO ACCOMPANY APPLICATION FORM

Each application to the Board shall be accompanied by 8 copies of the following (3 copies if Plot and Building Plans are over 11" by 17"):

- 1. A Plot Plan of the subject property drawn to scale. It shall have a North (N) Point, names of streets, Zoning District, Property Lines, Dimensions, Locations of buildings, Locations of well and septic, and Locations of Required parking spaces if applicable. It shall identify the Location of Buildings and/or Use of the property pertaining to the Variance, Special Permit, or Appeal. The Distances from adjacent buildings and property lines (setbacks) shall be verified in the field and shown on the Plan. Entrances, Exits, and Driveways that are pertinent to the granting of the permit shall be shown.**
- 2. Accurate to scale drawings of floor plans and elevations including dimensions and ridge height of the building activity proposed by the application. These need not necessarily be done by a registered architect or engineer, but must accurately reflect the proposed construction. Please include the scale.**
- 3. All of the proposed data must be shown in RED.**
- 4. A brief to the Board setting forth the reason for the application, the facts supporting the case and what impact there will be to the neighborhood---environmental, noise, visual, traffic, etc.**

5. Any topographical feature of the parcel of land relied upon for a Variance such as ledges, rock, peat, or natural condition of water, brook or river shall be shown on an engineering plan.

6. The Board may require further information. The Board may require to make a site visit. The Board has the right to inspect property, where they deem it necessary, and may request any other appropriate Town Boards or their designated representatives to do so.

Section III

A. NOTICE

Notice of Hearings will be advertised as required by the provisions of Mass General Laws Chapter 40A. The application fee covers the cost of the 2 required legal ads; the applicant will not be billed for them.

In addition, at least 14 days prior to the date of the Hearing, the ZBA office will mail a copy of the advertised notice to the abutters, and abutters to abutters, within a 300 foot radius from the applicant's property lines, to the applicant, to the owner, and to the Building Inspector and other Town Boards. The required names and addresses for this abutters list will be obtained and processed by the Board of Appeals Office.

B. HEARINGS TO THE PUBLIC

All Hearings shall be open to the public. No person shall be excluded unless considered by the chairperson to be a "serious hindrance" to the workings of the Board.

C. REPRESENTATION AND ABSENCE

An applicant may appear on his/her behalf, or be represented by an agent or an attorney. In the absence of any appearance without due cause on behalf of an applicant, the Board may decide on the matter using the information it has otherwise received.

D. ORDER OF BUSINESS

1. Reading of petition and legal notices by the clerk, together with presentation of exhibits, if any.
2. Applicant's presentation.
3. Opponent's presentation, if any, and questions by those seeking information.
4. Applicant's rebuttal, restricted to matters raised by opponent's presentation.

Members of the Board who are hearing the case may direct appropriate questions during the hearing.

5. Close hearing and open Board Meeting to begin deliberations to vote.

E. BRIEF TO THE BOARD

It is recommended that every appeal, and every application for a variance or special permit, be supported by a brief setting forth in detail all facts relied upon by the parties. This is particularly desirable in the case of a variance when the following points, based on General Laws, Ch 40A, Sec. 10 should be clearly identified and factually supported.

1. The particular use proposed for the land or building.
2. The conditions especially affecting the property for which a variance is sought.
3. Facts which make up the hardship.
4. Facts relied upon to support a finding that the relief sought will be desirable and without substantial detriment to the public good.
5. Facts relied upon to support a finding that the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.
6. In any case, a brief setting forth in detail of all facts relied upon by the parties shall be filed if so ordered by the Board.

DISPOSITION BY THE BOARD

Section IV

A. VOTING REQUIREMENT

1. The concurring vote of at least 4 members of the 5 member West Tisbury Board shall be necessary to reverse any order or decision of any other administrative official or to decide in favor of the applicant on any matter upon which the Board is required or authorized to pass. 2 Associate Members sit on the West Tisbury Board.
2. The record shall show the vote of each member upon each question or, if absent or failing to vote, indicate such fact. It shall, in addition set forth clearly the reason or reasons for its decision.

B. RECORDS

The Board of Appeals has 65 days from the date of filing to hold a public hearing and 90 days after that to make a decision on the application of a Special Permit. The Board has 100 days from the time of filing to make a decision on the application of an appeal or a variance. A detailed record of proceedings, including the vote on each question, must be filed with the Town Clerk within 14 days of the final action.

C. WITHDRAWAL

An application may be withdrawn by notice in writing to the ZBA clerk at any time prior to the hearing by the Board, except that, after an advertisement, withdrawal is allowed only by Board approval.

D. RECONSIDERATION

Once a petition has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Board.

E. REAPPLICATION

In order to have a petition re-heard within 2 years, the petitioner must request permission from the Planning Board and Permit or Special Permit Granting Authority, showing new evidence that substantially alters the conditions of the petition. At least 4 members of the Planning Board must agree that this condition has been met. Once the Boards agree the petitioner must re-apply to the Board of Appeals in the normal manner.

