



# *Town of Warren*

## **Zoning Board of Appeals**

### Administrative Appeal

Notice of appeal of a Building Inspector's decision or order must be filed with the Town Clerk's office by the applicant or applicant's representative within (30) thirty days after the decision or order is filed by the Building Inspector. The Building Inspector's decisions and/or orders are filed in his or her office.

The Applicant carries the legal burden to make a true and complete presentation of the case, to offer evidence on each of the pertinent legal requirements, and to provide all the relevant facts and documents necessary to a fair presentation of the issues for decision by the Board. Any false statement to the Board and any failure to state a material fact gives the Board legal grounds to revoke any favorable action it has taken on the application, whether or not the Board explicitly reserves the right to modify or amend its action. Opponents are under a similar legal duty to present their cases truthfully and completely. Under MGL Ch. 40A, Section 15, the Board has the power to subpoena witnesses, take sworn testimony, and compel production of documents.

- All appeals must be filed by the applicant with the Town Clerk along with a check for (\$100) one hundred dollars payable to the "Town of Warren" for administrative costs.
- The Applicant is solely responsible for submitting (15) fifteen copies of the required documents which must include the following:
  - ✓ Completed/signed Administrative Appeal
  - ✓ Certified list from the Assessor's office of abutters within (300') three hundred feet of the property at issue. Notification to these abutters will be prepared and mailed by the ZBA Clerk. The cost of this mailing is included in the administrative fee.
  - ✓ Stamped certified plot plan, prepared by a registered land surveyor within (6) six months of submitting the petition or application.

The survey plan shall be no smaller than 11" X 17" and drawn at a scale appropriate for review, and shall include the following:

- North indicator
- Zoning district
- Names of streets
- Structures thereon and the proposed non-conforming structure highlighted
- Dimensions from all structures to the lot lines
- Dimensions of all property lines
- Location and dimensions of all driveways, sidewalks, parking, wells, leach fields, fences, hedges, and trees
- Flowing bodies of water, ponds, lakes, or wet lands
- ✓ Copy of decision or order being appealed.
- ✓ Photographs and letters of support from abutting property owners may be submitted.

### **Filing Date Certification**

- Appeals must be filed with the Town Clerk, who will certify the time and date of the filing.

### **Site Visit**

- By signing and submitting this appeal, the applicant is consenting to a site visit or visits by the Board for an inspection of the exterior of the subject property.

### **Departmental Review**

- The Town Clerk shall distribute copies of complete applications to the following municipal boards and officials: Board of Health, Board of Selectmen, Building Inspector, Conservation Commission, Department of Public Works, Historical Commission, Planning Board, Sewer Commission, and Police and Fire departments. Each board or official may provide comments or recommendations to the ZBA concerning the appeal within 30 thirty days after receipt of the appeal or petition, and may provide copies of such comments or recommendations to the applicant. The Town Clerk shall maintain a signature sheet of receipt to verify delivery of appeal.

### **Application Withdrawal**

- Any application for an administrative appeal which has been submitted to the Board may be withdrawn without prejudice by the applicant prior to the publication of the notice of a public hearing thereon, but thereafter may be withdrawn without prejudice only with the approval of the Board.

### **Public Hearing**

- The Board will make every effort to hold a public hearing within (65) sixty five days from the date the application is filed with the Town Clerk.
- In the absence of any appearance without due cause on behalf of the applicant, the Board shall declare the appeal withdrawn without prejudice.

### **Public Notice**

- Public Notice of this hearing will include:
  - ✓ Name of applicant
  - ✓ Description of area or premises
  - ✓ Street address or other means of identifying the location
  - ✓ Date, time and place of the public hearing
  - ✓ Subject matter of the hearing
  - ✓ Nature of the appeal requested

### **Notice in Newspaper**

- Notice will be advertised in the Worcester Telegram & Gazette by the ZBA Clerk once in each of (2) two successive weeks, the first publication to be not less than (14) fourteen days before the day of the hearing stating the date, time, and location of the public hearing, as well as the relief requested by the applicant. The cost of advertising is included in the administrative fee.

### **Posting of Notice**

- The Town Clerk will post notice “in a conspicuous place in the city or town hall for a period of not less than (14) fourteen days before the hearing.”

### **Notification of Parties in Interest**

- The ZBA Clerk will mail notice to all parties in interest:
  - ✓ Applicant
  - ✓ Abutters
  - ✓ Owners of land directly opposite on any public or private street or way
  - ✓ Abutters to the abutters within three hundred feet of the property line of the applicant

### **Order of Business**

- The public hearing shall be held at the call of the chair, who shall describe the rules of procedure for the hearing and then read or direct the reading of the public hearing notice to open the public hearing. After the opening of the public hearing the order of business shall generally proceed as set forth below:
  - Clerk will swear in all who wish to address the Board at the hearing
  - Applicant, or agent presents the appeal
  - Board members ask questions
  - Those in favor speak after first providing their names and addresses for the record
  - Those opposed speak after first providing their names and addresses for the record
  - All reports of boards, municipal officials, or others are read into the record
  - Municipal board representatives and officials ask questions
  - Board members ask for additional information from any or all parties
  - The petitioner or agent provides a rebuttal restricted to the matters raised by other presentations or questions
  - The chair, upon majority vote of the Board, continues the public hearing to a date, time, and place certain that is announced at the public hearing or closes the public hearing if all testimony, documentation, and evidence has been gathered
- The members of the Board may direct appropriate questions at the end of any party's or person's presentation. All questions shall be directed through the chair.

### **Decision Time Limit**

- (100) One hundred days from the certified appeal filing date

### **Voting Requirements**

- (4) Four of a (5) five member Board vote in favor is required for approval

### **Notice of Decision to Parties in Interest**

- The Board shall send by mail a notice of the decision to:
  - ✓ The applicant
  - ✓ Parties in interest, as set forth in M.G.L. 40A, Section 11
  - ✓ Every person present at the hearing who requested that notice be sent

### **Decision Filing**

- Approved appeals will be submitted to the Building Inspector's office for processing.
- Applicant may not act on decision until appropriate permit is issued by the Building Inspector's office.

### **Appeal of Decision**

- Appeals, if any, shall be filed within (20) twenty days after the date of filing of such decision in the office of the Town Clerk.

### **Final Appeal Decision**

- No appeal that has been unfavorably and finally acted upon by the Board shall be considered within (2) two years.

**The Board recommends that the Applicant reference Massachusetts General Laws Ch 40A, Town of Warren Zoning Bylaws, and Zoning Board of Appeals Rules & Regulations for further clarification.**