

Town of Great Barrington
Massachusetts

Application to the
Zoning Board of Appeals

INSTRUCTIONS

You may download this form and fill it in on your computer. Fill out all applicable information. Save and print the form, and sign it where required. When you are ready with your form and all supporting plans and materials, call the Planning Dept to set up a time to file the application. You will need to submit the original and 10 full copies of the entire package. A PDF of the entire application packet must also be submitted electronically; any PDFs with plans must be clear and scalable. Incomplete applications and those not accompanied by the required fee or copies may be rejected. The Planning Dept can be reached at (413) 528-1619.

FOR OFFICE USE ONLY

Number Assigned: _____
Filing Date: _____
Received and checked for completeness
by: _____
Date filed with the Town Clerk _____

FOR ZBA USE:

Advertising dates: _____ & _____
Public hearing date: _____

TIMELINE: The Zoning Board of Appeals (ZBA) will set a public hearing date that is at least 45 days but no more than 65 days from the date of your filing. The hearing date will be posted at Town Hall and in accordance with the Open Meetings Law, and notice of the hearing will be sent to the Applicant and/or Applicant's agent and abutting property owners by mail, and advertised for two consecutive weeks in the local newspaper.

A. WHAT ARE YOU SEEKING?

Check all that apply. If you are unsure, please consult with your attorney, or the Town Planner or Building Inspector.

- VARIANCE (exempts a property from some Zoning requirements)
You must complete portions A., B., C., D., G., H, I., and J. of this form.
- SPECIAL PERMIT (for changes to nonconforming uses, structures)
You must complete portions A., B., C., E., G., H, I., and J. of this form.
- APPEAL (to overturn a decision of Building Inspector or a Board)
You must complete portions A., B., C., F., G., H, I., and J. of this form.
- 40 B Comprehensive Permit (call ahead)

B. SITE / PROPERTY INFORMATION

Address of Subject Property _____

Assessor's Map: _____ Lot: _____
Registry of Deeds Book: _____ Page: _____
Zoning District (s): _____
Overlay District(s), if any: _____

C. APPLICANT AND OWNER INFORMATION

Applicant's
Information

Name (please print) _____ Phone (area code first) _____
Street Address _____
City, State, Zip Code _____
If Applicant is a corporation, provide name of contact person: _____
Email Address _____ Signature _____

- Check here if Applicant and Property Owner are the same, and skip to the next section.
- Check here if Applicant is different than the Property Owner, and to verify that you have the Property Owner's permission to file this Application. Note that the Property Owner must sign below to indicate permission to file this Application.

Enter Property Owner's information EXACTLY as it appears on the most recent tax bill.

Property
Owner's
Information

Name (please print) _____ Phone (area code first) _____
Street Address _____
City, State, Zip Code _____
Email Address _____ Signature _____

D. VARIANCES If you are requesting a variance, please answer all of the following. Attach additional sheets if necessary.

1) From which Section(s) of the Zoning Bylaw do you request a variance?

2) What will the requested variance(s) enable you to do?

3) If the variance(s) is not granted, what hardship will that cause you?

4) What special circumstances relating to soil condition, shape or topography of land or structures, affect your property but not other properties in the same zone?

5) Explain why your special circumstances are not a result of your own actions.

6) If the variance(s) is not granted, what rights will you be deprived of that other properties in the same zone enjoy?

7) Explain why a variance will not give you any special privileges that other properties in the same zoning district don't have.

E. SPECIAL PERMITS If you are requesting a special permit, please answer all of the following. Attach additional sheets if necessary.

1) A special permit is being requested in order to (please describe project):

2) This application is made under the following Sections of the Zoning Bylaw (check all that apply)

<input type="checkbox"/> Section 5.2	<input type="checkbox"/> Section 5.3	<input type="checkbox"/> Section 5.5
<input type="checkbox"/> Section 5.6	<input type="checkbox"/> Section 5.7	<input checked="" type="checkbox"/> Section 10.4

3) Reason(s) that this property is not in conformance with the Zoning Bylaw

4) Are there any previous Special Permits or Variances for this property?

No Yes
If yes, provide date(s), and name of issuing Board _____

F. APPEALS If you are seeking an appeal, please answer all of the following. Attach additional sheets if necessary.

1) This application is to appeal the decision of

Building Inspector Planning Board Selectboard

2) Date of decision

3) Nature of the decision

4) Applicable Section(s) of the Zoning Bylaw

5) Describe your interpretation of the nature of the decision and the remedy you seek. Attach additional sheets if needed.

G. REQUIREMENTS FOR ALL APPLICATIONS

By checking the items below, applicant acknowledges that each application is accompanied by each of the items listed below.

- Plot Plan of the entire property or tract. The Board may require the plan to be signed by a licensed surveyor or engineer, particularly if the matter involves dimensional issues. The plan should include those items listed in Section 10.5.3 of the Zoning Bylaw, including two locus maps--one USGS survey map and one current zoning map-- illustrating property location.
- A current list of all abutters within 300 feet of the property, including address of owner, map and lot number. The list must be obtained from the Assessor's office and certified by the Assessor's office. Call 413-528-1619.
- At least one copy of the application and plans / specifications shall be no larger than 11 x 17 inches.

H. APPLICATION FEE

Application fee is \$350.

- Check here to confirm that your check in the appropriate amount is enclosed. Make checks payable to Town of Great Barrington.

I. TECHNICAL REVIEW FEES

- The Zoning Board of Appeals may hire independent consultants whose services shall be paid for by the applicant(s) under the terms of the Rules and Regulations of the Zoning Board of Appeals, and in accordance with Chapter 44, Section 53G of the Massachusetts General Laws. Check here to acknowledge and be bound by these regulations. Failure to acknowledge shall cause this application to be rejected as incomplete. ** *Please also sign here:* _____

J. ADDITIONAL INFORMATION

Recommending Boards: All applications to the Zoning Board of Appeals are referred to the Planning Board, Conservation Commission, Board of Health, and Board of Selectmen for comments and recommendations. Applicants should be prepared to attend those meetings in order to brief those boards of their project and answer any questions.

Site Visits: The ZBA and recommending Boards may contact the Applicant to request a site visit. Applicants agree to facilitate access to the site at a mutually convenient date and time.

Timeline/ Procedures: The ZBA conducts its business in accordance with Massachusetts General Laws. Accordingly, the ZBA will hold its Public Hearing not later than 65 days after the filing of the application. A decision for a variance or appeal will be rendered not later than 100 days from the filing date. A decision for a special permit will be made not later than 90 days after the close of the Public Hearing. The decision will be filed with the Town Clerk within 20 days of the date of the decision. The appeal period lasts for 20 days after the filing with the Town Clerk. On the 21st day, if no appeals are filed, or once all appeals are resolved, the applicant shall have the decision certified by the Town Clerk. The Applicant is responsible for then filing the decision with the Registry of Deeds, at which time the decision becomes effective.

Guidance and Counsel: In preparing this application and when presenting the case to the ZBA, applicants are advised to be fully familiar with, or seek counsel from a qualified person who is familiar with, the Zoning Bylaw and other rules, regulations, and laws as may be appropriate. If you wish to discuss the completeness of this application, or have any questions about this application, please contact the Planning Dept. at 413-528-1619. However, we will not discuss the merits or strategy of your case.

Applicant's Signature: "I have read and I understand all of the information on this application. I have also read and understand the pages entitled **IMPORTANT GUIDANCE AND INFORMATION FOR APPLICANTS.**"

_____ (signed) _____ (date)



TOWN OF GREAT BARRINGTON MASSACHUSETTS

ZONING BOARD OF APPEALS

IMPORTANT GUIDANCE AND INFORMATION FOR APPLICANTS

When applying to the Zoning Board of Appeals (ZBA) for a Special Permit or a Variance per Section 5 of the Great Barrington Zoning Bylaw, the Applicant is asking for “zoning relief,” to use land or to build a structure in a way that is not usually allowed or is prohibited in a particular zoning district. The ZBA takes these requests very seriously and asks the Applicant to do the same. The Applicant also needs to be aware that not all requests are granted and there is never an automatic approval. The ZBA will follow a careful decision making process in keeping with the regulations of MGL Chapter 40A (the Zoning Act) and the local Zoning Bylaw. The ZBA offers this guidance to help Applicants prepare for this important process.

Please be aware that you are not eligible to be granted a ZBA Special Permit or Variance if your preexisting use was illegally begun or your preexisting structure was illegally built. The provisions of Section 5 of the Zoning Bylaw—the ability to change a nonconforming use or a nonconforming structure—do not extend to uses or structures that are not lawful. The ZBA cannot grant your application unless you can prove your use or structure is legal to begin with. For example, if a building in a residential zone is used for an industrial purpose, and if the Zoning Bylaw prohibited this at the time the use began, you may not be entitled to zoning relief.

This concept is similar to being “grandfathered,” but it is not the same. Being grandfathered means zoning enforcement action cannot be taken against your use or structure, but it does not make your use or structure legal. Your use or structure is legal if it was used or built in that manner before zoning regulations, or a particular zoning regulation, came into effect. Establishing the date your use began or your structure was built, and establishing the date of the relevant zoning regulations, is therefore critically important to your case. The ZBA expects that you will, as part of your presentation, provide evidence establishing your argument that your use or structure is legal. If you cannot provide this evidence, the ZBA may deny the Application.

There are ways to establish dates for when uses commenced or buildings were built. Property deeds may refer to when a building was built or how it was used; presenting such a chain of title back to the date of the appropriate zoning bylaw is frequently used to furnish proof of dates. Historic maps of town, including insurance maps for example, and photographs, if they can be dated, may be a valuable resource in showing when your structure was built. Documents and records, particularly old building permits, from the Assessor or Building Department or a licensing bureau (state or town) might also be useful. Other sources might include business address directories or advertisements. Sometimes personal knowledge is all that can be found, and you might gather sworn affidavits from knowledgeable persons.

Please note that you are not required to have an Attorney represent you or prepare your application, but you may wish to do so because of the complexities of land use and zoning law.

Other Information and Procedures

Timeline/ Procedures: The ZBA conducts its business in accordance with Massachusetts General Laws, Chapter 40A. Accordingly, the ZBA will hold its Public Hearing not later than 65 days after the filing of the application. The ZBA will make its decision for a special permit not later than 90 days after the close of the Public Hearing. The ZBA will make its decision for a variance or appeal not later than 100 days from the filing date. Decisions will be filed with the Town Clerk within 20 days of the date of the decision.

Once the decision is filed with the Town Clerk, the applicant and abutters are notified of the decision, and a 20-day appeals period begins. If no appeals are filed, then on the 21st day, the Applicant shall have the decision certified by the Town Clerk. (If an appeal is filed, then the decision is certified once the appeal resolved.)

It is the Applicant's responsibility to then file the decision with the Registry of Deeds, ensuring the decision (and the rights and responsibilities conferred by the decision) becomes part of the chain of title of the property.

Site Visit: A site visit is generally held the same day as the Public Hearing and will be coordinated with the Applicant. The site visit is for the ZBA to see first-hand how the requested use or action will affect the site and the area. The Applicant and/or the Applicant's representative is expected to be present at the site visit.

Recommending Boards: Prior to the Public Hearing, your application will be referred to the Planning Board, Conservation Commission, Board of Health, and Selectboard for comments and recommendations. Applicants should be prepared to attend those meetings in order to brief those boards of their project and answer any questions.