



Chelmsford Board of Appeals
Town Offices
50 Billerica Road
Chelmsford, MA 01824
Phone 978-250-5231 Fax 978-250-5232

**REGULATIONS GOVERNING VARIANCES, SPECIAL PERMITS, AND
ADMINISTRATIVE APPEALS**

ADOPTED 7/20/00
REVISED 4/10/03

1. GENERAL

Any property owner or party in interest may petition the Board of Appeals for any of the following reasons:

1. To appeal the decision of an administrative officer or Board of the Town, as it pertains to the Chelmsford Zoning Bylaw, Article 195 of the Chelmsford Code.
2. To request a Variance from the Zoning Bylaw.
3. To request a Special Permit as specifically allowed under the Zoning Bylaw.
4. To request a Comprehensive Permit, as allowed under Massachusetts General Laws, Chapter 40B.
5. To hear and decide other actions as allowed by Massachusetts General Laws, Chapter 40A, 40B, 41, or the Town of Chelmsford Zoning Bylaw, Article 195 of the Chelmsford Code.

2. APPLICATION REQUIREMENTS

A. When applying to the Board of Appeals for a Variance, Special Permit, or Administrative Appeal the applicant shall file with the Town Clerk the following:

1. Certified Plot Plan

Sixteen (16) copies of a Certified Plot Plan of the property in question. This plan shall be drawn to scale showing all existing structures, proposed structures and additions, structures on adjacent properties, and any other information pertinent to the application. The Certified Plot Plan shall be signed and stamped by a Land Surveyor licensed to work in Massachusetts. At least one (1) copy of this plan shall bear the original stamp and signature of the licensed surveyor. The Certified Plot Plan shall be drawn on paper no larger than 11" x 17" or on paper folded to 8 ½" X 11" at a scale of 1"= 20' or 1"= 40'. NOTE: Mortgage inspection plans, mortgage survey plans, and plans modified by anyone other than a licensed surveyor are not acceptable and may delay the processing of applications.

2. Assessors Plat

Three (3) copies of the Town of Chelmsford Assessors Map(s) of the area in question. This is available at the Assessors Department.

3. Application Form

Three (3) copies of the application form which is available from the Zoning Board of Appeals Office. At least one copy of the application form must bear the original signature of the property owner. If the applicant is other than the property owner a letter from the property owner authorizing the application and bearing

his/her original signature may be submitted. The application shall state in precise language the reasons for the application (for example, a Variance for insufficient frontage, insufficient lot area, insufficient yard setback; a Special Permit to modify an existing nonconforming structure or use, or for approval of a use which is only allowed by Special Permit).

4. Building Inspector's Denial

One (1) original and two (2) copies of the Building Inspector's denial letter.

5. Abutters List

The applicant shall obtain a "Certified List of Abutters" from the Board of Assessors and include three (3) copies of the list with the application to the Board of Appeals. The Board of Appeals shall notify the abutters by Registered Mail, Return Receipt Requested.

6. Application Fee

The following are the application fees payable to the "Town of Chelmsford" at the time of submittal of the application.

A.	Residential Variance/Special Permits:	\$100
B.	Commercial Variance/Special Permit:	\$400
C.	Home Occupation Special Permits:	\$100
D.	Comprehensive Permit	
	1. Housing Authority:	\$0
	2. Others:	\$1000 + \$50 per dwelling unit
E.	Administrative Appeals	\$300

7. Abutter Notification Fee

Applicants shall pay for the cost of notifying, by first-class mail with certificate of mailing, each of the abutters as they appear on the list prepared by the Assessors. The applicant shall provide one **\$1.05** stamp for each abutter.

8. Legal Notice Fee

The applicant shall provide a deposit check in the amount of \$50.00 for the cost of publication of a legal notice in the newspaper. The applicant shall be informed of the actual cost of publication on the Wednesday before the hearing. The applicant shall receive their \$50.00 deposit back when they provide a personal check (payable to the Town of Chelmsford) for the legal notice fee.

9. Project Review Fees

So that the Board may make findings required under the Bylaw and insure that the public safety will be protected, the Board may hire outside traffic, engineering, architectural, legal, or planning consultants to review an application. Said outside review shall be pursuant to the provisions of Massachusetts General Laws, Chapter 44, § 53G. To cover the cost of these reviews, a review fee deposit may also be required of an applicant at the time of submission or at any appropriate time in the review process. The amount of the fee deposit will reflect the anticipated consultant fee(s) plus 10%. Note that some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review. Any amount of the deposits remaining after the issuance of building permits for the proposed construction plus any remaining accrued interest will be repaid to the applicant or the applicant's successor in interest. The applicant may choose the consultant for any such review from a pre-approved list

maintained by the Board; otherwise, the Board will make the choice of the consultant.

The applicant may appeal from the selection of an outside consultant to the Board. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications of an educational degree in or related to the field at issue, or three or more years of practice in the field at issue or a related field. The applicant must specify the specific grounds which the applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements.

10. Sign Design Plans

For applications for approval of freestanding or wall signs sixteen (16) copies of the proposed sign plan shall be submitted with the application.

B. Application for Comprehensive Permit

Please refer to the Comprehensive Permit Rules and Regulations

C. Submitting the Application:

When all required application materials are assembled applicants shall bring the application package to the Community Development/Board of Appeals Office for a review for completeness. If the application is complete applicants will be directed to the Town Clerk's Office where the application is date stamped. Without this review for completeness the Town Clerk will not date stamp the application and the hearing on the application will not be scheduled.

NOTE: Applicants for Limited Accessory (In-Law) Apartments please refer to Addendum A (attached) for additional requirements.

3. HEARING PROCEDURE

A. Hearings normally commence at 7:00 PM, are scheduled in the order the applications are received, and are conducted according to the provisions of the Open Meeting Law, Massachusetts General Laws, Chapter 39, §§23A-24.

B. The appellant or his/her representative will be called to present evidence to the Board in support of the application. Following the appellant's presentation, the Board members will ask questions regarding the application. The audience will then be allowed to ask questions or comment on the application.

C. Variance

The Board of Appeals shall only grant a Variance where:

1. Owing to circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures, but not affecting generally the zoning district in which it is located;
2. A literal enforcement of the provisions of the Zoning Bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant; and
3. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Bylaw.

The Board of Appeals shall grant a Variance only where the applicant demonstrates to the Board of Appeals that all of the above exist.

D. Special Permit

For a Special Permit the applicant shall demonstrate and the Board must determine that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in the Zoning Bylaw, the Board shall consider the following in making its determination:

1. Social, economic, or community needs which are served by the proposal;
 2. Traffic flow and safety, including parking and loading;
 3. Adequacy of utilities and other public services;
 4. Neighborhood character and social structures;
 5. Impacts on the natural environment; and
 6. Potential fiscal impact, including impact on town services, tax base, and employment.
- E. Special Permits may be granted with such reasonable conditions, safeguards, or limitations on time and use, including performance guaranties, as the Board may deem necessary to serve the purposes of the Zoning Bylaw.
- F. An applicant may withdraw an application at any time prior to the vote of the Board, subject to the Board's agreement.

4. DECISIONS

A. VariANCES

The Board of Appeals shall file its decision on a Variance with the Town Clerk within one-hundred (100) days after the date of the filing of the petition for the Variance.

B. SPECIAL PERMITS

The Board of Appeals must hold a public hearing within sixty-five (65) days after the date of the filing of the petition and must make a decision within ninety (90) days after the close of the public hearing.

C. COMPREHENSIVE PERMITS

The Board of Appeals must hold a public hearing within thirty (30) days of receipt of the application for a Comprehensive Permit and must render a decision within forty (40) days after the close of the public hearing.

D. ADMINISTRATIVE APPEALS

The Board of Appeals must hold a public hearing within sixty-five (65) days after the date of the filing of an administrative appeal and must make a decision within one-hundred (100) days after the close of the public hearing.

E. SPECIAL REQUIREMENTS

1. When granting Variances, Special Permits, or reversing an order or decision of an administrative officer a minimum of four (4) affirmative votes are required for approval. A vote resulting in fewer than four (4) affirmative votes shall be considered a denial of the petition, application, or appeal.
2. Comprehensive Permits require an affirmative vote of at least three (3) members of the Board.
3. The Board shall clearly set forth its reasons for granting a Variance, Special Permit, or Comprehensive Permit.

F. The Board's decision becomes official when it is date stamped at the Office of the Town Clerk. This shall occur within fourteen (14) days after the vote.

G. There is a twenty (20) day appeal period beginning on the date the decision is stamped by the Town Clerk. The Variance or Special Permit only becomes valid when the twenty (20) day appeal period expires without an appeal being filed.

- H. Upon the expiration of the twenty (20) day appeal period the applicant shall get the Town Clerk's endorsement that no appeal was filed. The Town Clerk may charge a fee for this service.
- I. The applicant shall record the decision, bearing the Town Clerk's endorsement, at the Registry of Deeds at 360 Gorham Street, Lowell, MA. No building permit shall be issued without a recorded decision.
- J. A Variance shall be valid for one (1) year from the date it is received by the Town Clerk. If an appeal is filed the Variance shall be valid for one (1) year from the date the appeal is settled or decided by the Court.
- K. A Special Permit shall be valid for two (2) years from the date it is received by the Town Clerk. If an appeal is filed the Special Permit shall be valid for two (2) years from the date the appeal is settled or decided by the Court.