

**TOWN OF WAKEFIELD**



**BOARD OF APPEALS**

Sections of Wakefield Zoning Bylaw are set forth to use as a guide to assist in filing for Public Hearing.

- a. For a variance from the requirements of the Zoning Bylaw.
- b. For a special permit under the Zoning Bylaw.
- c. As a party aggrieved, for review of a decision made by the Building Inspector or other authority. The decision, stating the grounds therefore, must be attached.
- d. Continuation and extension of non-conforming uses.

A copy of the application is attached hereto (*please read and follow instructions carefully*).

**SECTION 12. SCHEDULE OF FEES**

The following schedule of fees is established to cover the costs of legal notices, mailing and other costs related to the review of applications and petitions submitted to the Zoning Board of Appeals, the Planning Board, or the Special Permit Granting Authority, if any.

For all applications there is a \$100.00 fee to cover advertising and notification of the first 20 parties to be notified (\$2.00 will be charged for each additional party over 20).

In addition, the following fees shall be paid:

**APPLICATIONS FOR PETITIONS BEFORE  
THE ZONING BOARD OF APPEALS**

Appeals from actions of administrative officials or agencies ...	\$ 125.00
Residential variances related to dimensional regulations.....	\$ 50.00
Nonresidential variances related to dimensional regulation....	\$ 100.00

**APPLICATIONS FOR PETITIONS BEFORE A  
SPECIAL PERMIT GRANTING AUTHORITY**

Multi-family or attached	
dwelling development.....	\$70.00 per residential dwelling unit
Cluster development.....	\$70.00 per residential dwelling unit
Any other special permit required by this bylaw.....	\$100.00

*NOTE:* Combinations of separate applications or petitions listed above shall not be filed on one application. Petitioner shall file separate petitions and pay the appropriate fee for each application or petition filed.

All copies and fees must be filed with the Town Clerk.

Prior to filing with the Town Clerk, applicants must have Assessors certify that names and addresses of all parties in interest are accurately listed.

# TOWN OF WAKEFIELD



## BOARD OF APPEALS

**APPLICANT: COMPLETE THREE(3) COPIES OF THIS FORM**

Name \_\_\_\_\_

Mailing Address: \_\_\_\_\_

1. Application is hereby made (*check one*)

- a. For a \_\_\_\_\_ variance from the requirements of Section 6E of the Zoning Bylaws.
- b. For a special permit under, section \_\_\_\_\_ of the Zoning Bylaws.
- c. As a party aggrieved, for the review of a decision made by the Building Inspector or other authority. The decision, stating the grounds therefore, must be attached.
- d. Continuation and extension of non-conforming uses \_\_\_\_\_

- 2. a. Premises affected are land and building numbered \_\_\_\_\_ street.
- b. Premises affected are vacant land with frontage on \_\_\_\_\_.
- c. Premises affected are in a \_\_\_\_\_ Zoning District and the premises affected have an area of \_\_\_\_\_ and frontage of \_\_\_\_\_ feet.

3. Ownership:

- a. Name, address, map and lot of owner (if joint ownership, give all names):  
\_\_\_\_\_

b. If applicant is not owner, check his interest in the premises:

Prospective Purchaser \_\_\_\_\_

Lessee \_\_\_\_\_

Other (explain) \_\_\_\_\_

4. Deed recorded in Middlesex South Registry District Deeds Book \_\_\_\_\_ Page \_\_\_\_\_
5. Size of (Proposed) (Existing) Building: \_\_\_\_\_ feet  
 Front Set Back: \_\_\_\_\_ in feet.  
 Height: \_\_\_\_\_ Stories: \_\_\_\_\_ feet.  
 a. Approximate date of erection, if existing: \_\_\_\_\_  
 b. Present occupancy or use: (of each floor) \_\_\_\_\_

6. Description of proposed work and/or use:

7. Were Premises the subject of a previous application to this Board? \_\_\_\_\_  
 If "yes" give date of application \_\_\_\_\_ 19 \_\_\_\_\_

8. In reasons for the relief that I request are as follows: (use additional sheet, if necessary)

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9. "Parties in interest" as used in this chapter shall mean the petitioner, abutters, owners of the land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list. *List these names and mailing addresses on a separate sheet of paper.*

Signed ..... Street and No.....  
 Town..... State ..... Phone No.....

**\*INSTRUCTION\*** Applications must be typed or printed. Draw a line through blanks that do not apply. If applications are submitted with incomplete information, they will not be accepted. General Requirements for Application must be complied with, and a signed copy of the General Requirements shall accompany the original application filed with the Town Clerk.

**Prepare and bring to the hearing certified plot plan showing the lot, its area and dimensions, and the outline of any structures thereon and of the proposed structure together with distances from lot boundary lines. Plans of structures must be certified by a registered architect or structural engineer. All plot plans and site plans shall be certified by a registered land surveyor or a civil engineer.**

## **5 Appeals.**

- a) Any person, as defined by Section 8 of the Zoning Act, aggrieved by reason of his inability to obtain a permit from the Building Inspector under the provisions of this bylaw or by order or decision of the Building Inspector may take an appeal to the Board of Appeals.
- b) Appeals pursuant to Section 3 of Chapter 40A of the Massachusetts General Laws shall be taken within thirty days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, who shall forthwith transmit copies thereof to such officer whose order or decision is being appealed, and to the Board of Appeals. The Building Inspector shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the area in which the appeal is taken.
- c) All hearings of the Board of Appeal shall be open to the public. The decision of the Board shall be made within 100 days after the date of the filing of an appeal, application or petition except in regard to special permits when the decision shall be made within 90 days after the public hearing. Failure by the Board to act within said 100 days shall be deemed to be grant of the relief sought, subject to an applicable judicial appeal. The Board of Appeals reason or reasons for its decision and of its official actions, copies of all of which shall be filed within fourteen days in the Office of the Town Clerk and shall be a public record, and notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, or to anyone at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each notice shall specify that appeals, if any shall be made pursuant to Section seventeen of the Zoning Act, and shall be filed within twenty days after the date of filing of such notice in the Office of the Town Clerk. The Board of Appeals is responsible for all mailings and the posting of notices for Public Hearings.

## **6) Variances.**

- a) The Board of Appeals shall have the power, after giving appropriate public hearing notice as described in Section 10.J hereof and after holding said hearing with 65 days after the Board of Appeals receives the petition from the Town Clerk, to grant upon appeal or upon petition a variance from the terms of this bylaw where the Board of Appeals finds that 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, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.
- b) Petition for a variance shall be filed in the same manner as described under Section 10.H.5.d. hereof.
- c) The decision of the Board of Appeals shall be made within 100 days of the filing of the petition. The time period for the holding of the public hearing is inclusive of the 100 day period.
- d) No variance shall be granted unless there is a concurring vote of the entire Board of Appeals.
- e) If the Board of Appeals fails to act within the specified time period, the petition shall be deemed to be a grant of the relief sought.
- f) The Board of Appeals may impose conditions, safeguards and limitation both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner, or any owner.
- g) If the rights authorized by a variance are not exercised within one year of the date of grant they shall lapse and may be reestablished only after notice and a new hearing pursuant to this section.
- h) The decision regarding the variance shall contain: (1) the name and address of the owner; (2) an identification of the land and/or structure affected; (3) description of how the variance complies with statutory requirements for issuing a variance; (4) certification that copies of the decision have been filed with the Planning Board and the Town Clerk; and (5) specifications that appeals, if any, shall be made pursuant to Section 17 of Chapter 40A of the notice of decision was filed with the Town Clerk.

**Special Permits are not all in one category. Different requirements exist, refer to Zoning Bylaw for exact instructions:**

### **8.C. Special Permits - General Regulations**

Certain uses, structures or conditions are designated 4. Use Regulations, as requiring a special permit. Upon submission of a written application duly made to the Special Permit Granting Authority, the Special Permit Granting Authority may, in appropriate cases, subject to the requirements of State law, applicable conditions to all other reasonable conditions and safeguards, grant a special permit for such uses, structures or conditions.

- 1) Before granting a special permit, the Special Permit Granting Authority, with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general condition to be fulfilled:
  - a) The use requested is listed in the Table of Use Regulations as requiring a special permit in the district for which application is made.
  - b) The requested use is essential and/or desirable to the public convenience or welfare.
  - c) The requested use will not create or add to undue traffic congestion, or unduly impair pedestrian safety.
  - d) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to hazards affection health, safety or the general welfare.
  - e) The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the public health, convenience or welfare.
  - f) The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.
- 2) The Special Permit Granting Authority shall also impose, in addition to any applicable conditions specified in this bylaw, such additional conditions as it finds reasonably appropriate to safeguard neighborhoods, or otherwise serve the purpose of this bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this bylaw; screening buffers or planting strips, fences, or walls; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operating for the duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in a amount satisfactory to the Special Permit Granting Authority. Any special permit granted under this section shall lapse within 12 months if a substantial use thereof has not sooner commenced, except for good cause or in the case of a permit for construction, if construction or operations has not begun within 12 months or if construction is not continuing toward completion in as continuous or expeditious a manner as is reasonable during the initial 12 months, then the construction or operations shall conform to any amendment to this bylaw. (See Chapter 40A, Section 9 of Mass. G.L.)

### **8.D. Site Plan**

In order that the special Permit Granting Authority may determine that the aforementioned restrictions are to be met, a site plan (17 copies) shall be submitted to the Special Permit Granting Authority by the applicant.

Such site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas and other open uses; all facilities for sewage refuse and other waste disposal and for surface water drainage; and walks on the lot and tract.

In addition to the above, the following information shall be provided.

- 1) A chart showing all required dimensional requirements in the district where the development is proposed and comparing them to the dimensions being proposed.
- 2) Drainage calculations for all runoff within the site.
- 3) Map[ showing existing and proposed two foot contours. For sites which are relatively flat, one foot contours may be required. Cross sections(s) through the site may also be required.
- 4) Map showing all outdoor lighting including the direction and intensity of such lighting.

The above features may all be shown on one site plan, if legibility allows.

An applicant may, prior to submitting his application for a special permit to the Special Permit Granting Authority, meet with the Special Permit Granting Authority and orally describe the project. The Special Permit Granting Authority may waive or modify the requirements for a detailed site plan, as described above, after such a meeting.

Seventeen copies of the site plan shall be filed with the Special Permit Granting Authority at the time of application for a special permit. Within seven days of its receipt of the site plan, the Special Permit Granting Authority shall forward six copies to the Planning Board and one copy to each Department, and Conservation Commission for their comments and recommendations. In reviewing a site plan, the Special Permit Granting Authority and the other applicable agencies shall

consider, among other things, the following;

- a) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements.
- b) Adequacy of the methods of disposal for sewage, refuse and other wastes, and the methods for surface and storm water drainage.
- c) Provision for offstreet loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the lot or tract.

The Planning Board shall make its report of approval or of recommendations for changes in the site plan in writing to the Special Permit Granting Authority within 35 days after its official receipt of said plan. The Building Inspector should also forward its comments, if any, to the Special Permit Granting Authority within the above 35 day period.

Should the Planning Board or Building Inspector fail to act within 35 days of their receipt of a plan, the Special Permit Granting Authority shall be free to take action on the site plan and special permit application with what ever information it has available to it at the time of its review.

#### **9.B. Continuation and Extension of Nonconforming Uses.**

Except as hereinafter provided, this Zoning Bylaw shall not apply to uses, buildings or structures, lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on this bylaw required by Section 6 of M.G.L. Chapter 40A, as amended, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure. Preexisting nonconforming buildings, structures or use may be changed, extended or altered, provided, that no such change, extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. This section shall not apply to billboards, signs and other advertising devices subject to the provisions of Sections twenty-nine through thirty-three, inclusive, of Chapter 93D of the Massachusetts General Laws.