

TOWN OF BRIMFIELD

INSTRUCTIONS FOR FILING A PETITION FOR A SPECIAL PERMIT, VARIANCE OR APPEAL OF A DECISION BY THE BUILDING COMMISSIONER/ZONING OFFICER

The Brimfield Zoning Board of Appeals hears petitions for Variances and/or Special Permits based on a denial from The Building Commissioner/Zoning Officer.

The following information should be reviewed before applying to the Brimfield Zoning Board of Appeals.

A complete submission includes eight (8) hard copies of the completed application form and one emailed electronic copy of all documents, including denial letter from Building Commissioner and recent survey plot plan (see description below), accompanied by two separate checks. One check for \$200.00 and the second check for \$250.00, both made out to the Town of Brimfield. Additionally, a certified list of abutters within 300 feet of the property, from the Brimfield Board of Assessor's Office.

Survey Plot Plan of Land to Accompany Application:

Survey Plot Plan must be drawn to scale and contain dimensions of the lot, location of existing buildings and proposed changes, setbacks, and street lines. 8 hard copies should be submitted with the application. Hard copies should be at least 11"x17" in size and must also be submitted **digitally via email at the time of application.**

All plot plans submitted for a variance or special permit must be stamped, signed, and dated by a Massachusetts Registered Land Surveyor (per MGL/Mass Scope of Practice Reg 250 CMR 5.01), and dated within the last eighteen (18) months of the application. Plot plans will not be accepted if signed by an engineer.

Applications made by someone other than the owner(s) of the property must include a notarized letter from the owner of the property, allowing the applicant to represent the appeal on their behalf.

There is no "right" to a Special Permit. The Board may, subject to appropriate conditions and safeguards, grant an applicant a Special Permit to make use of land or erect other structures thereon. Applicants should be prepared to present data that tends to indicate that the public convenience and welfare will be substantially served by granting the permission requested; that the permission requested will not tend to impair the status of the neighborhood; that the permission granted will be in harmony with the general purposes and intent of the Brimfield Zoning Bylaws.

Request for a Variance, per M.G.L., c. 40A, s. 10

There are four individual prerequisites prescribed by M.G.L., c. 40A, § 10, which are conjunctive, and which must all be satisfied to justify the grant of a variance.

M.G.L. c. 40A, s. 10 authorizes a board of appeals to grant a variance with respect to particular land where it ‘specifically finds (a) that owing to circumstances relating to the soil conditions, shape, or topography of such land and especially affecting such land but not affecting generally the zoning district in which it is located, (b) a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, (c) that desirable relief may be granted without substantial detriment to the public good and (d) without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.’ *Warren v. Zoning Bd. of Appeals of Amherst*, 383 Mass. 1, 9 (1981).

It is the burden of the applicant to prove such prerequisites to the Board.

Filing Applications:

Completed Applications must be returned to the Town Clerk’s Office.

Public Hearing:

Within sixty-five, (65) days of the receipt of a complete submission, if the Board deems the application in need of a public hearing, the Board will schedule such public hearing and the applicant will be notified of the date, time and place the hearing will be held. The applicant or applicant’s duly authorized agent must be present at the hearing.