



**TOWN OF SOUTHBOROUGH
BOARD OF APPEALS**



VARIANCE APPLICATION INSTRUCTIONS

INSTRUCTIONS:

1. A complete Application (and all required supporting materials) must be received at least **4 weeks** prior to the scheduled initial hearing date to meet the legally required advertising deadline. The Board typically meets monthly. Please contact the Board Administrative Assistant at (508) 485-0717 to determine the date of the next scheduled hearing. **Please note: A Variance is an exception to the rule; you are making a legal argument and must prove one of the 4 following Hardships relating to:**

1. Soil Conditions 2. Topography 3. Shape of Land 4. Structure

One of these hardships must be met otherwise the Board will Deny your request for a Variance.

(also see Applicant burden of Proof , next page)

2. The Application must first be submitted to, discussed with and signed by the Building Department before filing the Application with the Town Clerk. When the Building Department has signed the Application, the Applicant must then file the Application with the Town Clerk and have the Application stamped by the Town Clerk to establish the official filing date.
3. Ten (10) copies of any material (in addition to that included with the Application) that will be referred to by the Applicant (or the Applicant's representatives) at any public hearing must be submitted to the Building Department at least 10 days prior to such hearing to ensure adequate and proper review by the Board and accessibility to the public. Any material submitted later than this deadline may, at the Board's discretion, constitute a constructive request by the Applicant for a continuation of the hearing if, in the opinion of the Board, the Board, Town staff or the public have not had adequate time to appropriately consider such material. ***Applicants should note that this additional material includes amended plans, renderings, visual displays, models, etc., that may have been prepared after the Application was filed and are expected to be used by the Applicant during a public hearing presentation.***
4. A copy of the Building Inspector/Zoning Officer's opinion on the proposed activity that is the subject of the Application ***must*** be provided with the Application.
5. A check, made payable to the Town of Southborough, in the amount of the required filing fee (refer to the Schedule of Filing Fees, available from the Building Department, to determine the specific filing fee required) must be submitted with the Application.
6. A recent (no more than three (3) months old) certified list of abutters must be obtained from the Assessors' office and submitted with the Application. (Please allow at least one week from the date of request for the list to be prepared by the Assessor's office and be mailed to Applicant.)
7. The notice of the hearing will be prepared and mailed to the Applicant (or their agent or representative) by the Town. Applicants (or their authorized representatives) must attend the public hearing(s). An Applicant's consultants, engineers, surveyors, etc., whose signatures and/or stamps are on drawings or plans submitted to the Board, are expected to be available at public hearings to answer questions that the Board or the public may have about the materials they have prepared.
8. The Town will submit the notice of the hearing to a newspaper to be published twice. The Applicant (or their agent or representative) will be billed directly for this by the newspaper and the Applicant is responsible for payment of this bill.
9. The Applicant (or their agent or representative) is responsible for sending (with confirmation of delivery) copies of the notice of the hearing to all of the abutters on the certified abutters list at least two weeks prior to the hearing. Documentation of this mailing and delivery receipts for the abutter notices must be submitted to the Building Department prior to the hearing.
10. After the hearing has taken place it will be approximately fourteen (14) days before the Board's decision is filed with the Town Clerk. The date of this filing is the official date of the decision. A copy of the filed decision will be mailed to the Applicant and to the abutters by the Town.
11. There is a twenty (20) day appeal period that starts on the decision filing date. The appeal period must elapse before the Town Clerk can certify the decision. During this appeal period the Board's decision may be appealed to the appropriate appellate body. If an appeal is made, the Town Clerk cannot certify the decision until the appeal has been fully adjudicated.
12. After Board approval of a Variance has been certified by the Town Clerk ***the Applicant must have this approval recorded at the registry of deeds.*** Until this recording occurs, the Variance will not take effect. ***Documentation of recording must be provided to the Building Department before a building permit will be issued.***



SUBMITTAL REQUIREMENTS:

ALL APPLICATIONS:

All required documents (and photos) must include ten (10) copies for distribution. The Building Department may require additional copies of any documents, or other documents, to be submitted, as may be determined appropriate at the sole discretion of the Board. Applications must be signed by the Applicant. If the Applicant is not the Owner, the Owner must also sign the Application and documentation (such as a Purchase and Sale Agreement) as must be provided to confirm the Applicant’s standing to apply for a Variance.

Plans submitted (other than the single full-size copy for the Building Department files) shall be no larger than 11” x 17” and shall be stamped and signed, as appropriate, by a MA-registered engineer, land surveyor, etc.. All plans and representations must be consistent with plans and representations provided to other Town Boards for the same project.

A plan naming and showing the location of all direct abutters and those across the street from the property must be provided.

APPLICATIONS REGARDING USES OF PROPERTY, LOCATION OF STRUCTURES AND DIMENSIONAL REQUIREMENTS:

Current, certified plot plans must be provided with at least the following shown:

- Existing and proposed conditions on the property, including location, size and description of all structures on the property;
- Property/building plan, square footage and dimensions, with the proposed uses clearly laid out and defined;
- Setbacks required by the Town Zoning By-Law (both in a tabular form and drawn on the plan); and
- Setback distances of structures from all property lines.

APPLICANT BURDEN OF PROOF:

Applicants for a Variance are advised that their Application submission and presentation in the public hearing must, according to the Town Zoning By-Law (the “By-Law”), specifically address the following requirements that the Board must consider in its evaluation of an Application for a Variance (as found the By-Law, Section 174-25.A(3)):

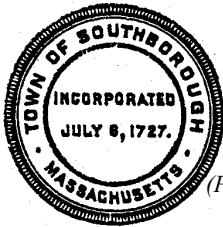
“The Board of Appeals shall have the power to grant, upon appeal or upon petition, variances from the terms of this chapter, including use variances, where the Board finds that, due to circumstances relating to soil conditions, topography or shape of land or structures and especially affecting such land or structures but not affecting generally the zoning district in which they are located, literal enforcement of this chapter would involve substantial hardship to the appellant or petitioner and that the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter.”

CHECKLIST FOR APPLICATION SUBMISSION:

- A. Ten (10) copies of a submission package including the following:
 - _____ 1. Completed Variance Application form
 - _____ 2. The Zoning Officer’s opinion related to the Application
 - _____ 3. Plans (no larger than 11” x 17”), signed and stamped, as appropriate, by a MA-registered land surveyor, engineer, architect, etc., showing at least the following:
 - _____ - the subject property location, square footage and dimensions;
 - _____ - the location, size and description of all structures on the property (including the setbacks of all such structures from the property lines) and other relevant features (as applicable) such as driveways, parking, easements, streams, wetlands, wells, septic systems, etc.;
 - _____ - the setbacks required by the By-Law for all property boundary lines;
 - _____ - the details of the proposed construction that is related to the Application (including any necessary supporting calculations related to the Application);
 - _____ - the location of all direct abutters and those across the street from the subject property; and
 - _____ - as necessary, copies of any required purchase-sale agreements to confirm an Applicant’s standing, or other documents as required by the Building Department.
 - _____ 4. A certified list of abutters, as obtained from the Assessors’ office
 - _____ 5. A set of current photographs of the subject premises/property, illustrating the proposed project area(s).
- B. The required filing fee (in the form of a check payable to the Town of Southborough)
- C. One full-size version of any plans provided for the Building Department files.

CHECKLIST FOR POST-SUBMISSION MATERIALS:

- D. Documentation of the mailing and delivery receipts for the abutter notices, which must be submitted to the Building Department prior to the public hearing.
- E. Ten (10) copies of any material (in addition to that included with the Application) that will be referred to by the applicant (or the Applicant’s representatives) at any public hearing, which must be submitted to the Building Department at least 10 days prior to such hearing.



TOWN OF SOUTHBOROUGH
BOARD OF APPEALS
VARIANCE APPLICATION FORM

(PLEASE ANSWER ALL OF THE FOLLOWING—USE ADDITIONAL PAGES AS NECESSARY)

- 1. Applicant's Name:
2. Applicant's Address:
3. Contact Telephone #(s) Email Contact:
4. Applicant Is: Owner: Tenant: Licensee: Prospective Buyer: Other:
5. Property Owner's Name: (if different from Applicant)
6. Property Owner's Address: (if different from Applicant)
7. Location Of Property:
8. Zoning District(s) Of All Properties:
9. Map/Lot/Book/Page Identification For All Properties:
10. Sections Of Zoning Regulations Petition Is Regarding:
11. Specific Relief Requested:

12. Description of Petition, and Applicant's Reasons for the Board to Approve the Petition:

Multiple horizontal lines for writing the description of the petition and reasons for approval.

13. Please list any Applicant representatives* who will be present for or will prepare materials for the public hearing(s):

Table with 4 columns: Name, Role (e.g., attorney, architect, etc.), Address, Telephone Number. Contains 6 empty rows for data entry.

(If there are more than five Applicant representatives, please identify them on a separate sheet.)

*NOTE: Any such Applicant representatives whose statements or work product are presented to the Board must disclose the nature and extent of any personal interest (beyond payment of customary fees for their services) related to the Application.



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14. Have any prior variances or special permits been granted for this property?	_____ NO _____ YES (if "Yes", please provide details on a separate sheet)
15. Are there any outstanding enforcement actions or regulatory issues related to this property (including, but not limited to, EPA/DEP, Town Boards, Federal or State Government agencies) or have there been any such issues related to this property at any time in the past five years?	_____ NO _____ YES (if "Yes", please provide details on a separate sheet)
16. Are there any other pending applications with other Town Boards or necessary approvals from other Town Boards related to this application (including, but not limited to, Planning Board, Conservation Commission, Board of Health)? With other Towns? The State of MA?	_____ NO _____ YES (if "Yes", please provide details on a separate sheet)
17. Application Pre-Filing Review by Building Department	REVIEWED BY _____ REVIEW DATE _____
18. Application Filing with Town Clerk	FILING DATE _____ _____ (Town Clerk Signature)

I hereby request a hearing before the Board of Appeals with reference to the above noted petition, and I hereby authorize the Board members and other Town officials, in their official capacity as related to this petition, to have unrestricted access to the subject property for purposes of viewing the subject property in relation to such hearing(s).

Signature Of Applicant: _____ Date: _____

Property Owner's Signature (if not the Applicant) _____ Date: _____

Applicants are advised that all papers filed with the Board appealing a decision of the Southborough Building Inspector, seeking a variance, seeking a special permit, or seeking any other relief from or action by the Board, shall be signed and dated by the party on whose behalf the filing is made or by the party's authorized representative and shall state the address, telephone number, facsimile number, and (if available) electronic mail ("e-mail") address of the party or authorized representative. This signature shall constitute a certification that the signer has read the document and believes the content of the document is true and accurate, and that the document is not interposed for delay. Signature by an authorized representative also certifies the full power and authority to represent the party. Any paper filed with the Board that contains false, inaccurate, or misleading information may be grounds for the Board to deny any relief sought from, or request made to, the Board by any party.

Applicants are also advised that at any public hearing the Board Chairman, at his/her discretion, may elect to have the Applicant and/or the Applicant's representatives sworn in relative to the statements that they make to the Board.

The Board, at its discretion and by majority vote, may require that the Applicant submit additional information related to the Application, including, but not limited to, a proposed "Memo of Decision" specifying proposed findings and conditions.

FOR BOARD USE ONLY

Application Pre-Filing Signature Date: _____

Application Filing Date: _____

Initial Public Hearing Date: _____

100 Day Period Expiration: _____