



*City of New Bedford*

## ZBA VARIANCE APPLICATION INSTRUCTIONS

### GETTING STARTED...

Anyone who has been denied a building permit can apply for a **Variance, Special Permit or Finding**. A building permit application that has been rejected *and* signed by an inspector of buildings as having been denied is needed to begin the Zoning Board of Appeals [ZBA] application process.

Before filling out the application, be certain you know which application you should file. Filing the wrong or incomplete application could result in you spending time and money unnecessarily, but it could also lead to an unnecessary denial of your petition by the ZBA.

When you're ready to get started, make sure you read everything here, follow all the steps listed and work closely with the planning office to make sure everything is complete before you submit your application. **The burden for preparing and submitting a complete ZBA application is with you.**

### APPLICATION INSTRUCTIONS

**The Application, overall.** All applications must be filled out completely and must be submitted with the material noted here including required drawings, a certified abutters list, a plot plan, the rejected building permit materials, fees and any other required attachments. Incomplete or improperly filed applications will be returned to the applicant for resubmission. Your application must include several required attachments as noted in this packet including, but not limited to, a Documentation of Deeds, Certificate of Title and Recorded Plans, etc.

**Required drawings.** All appeals, petitions, and application must be accompanied by the following accurately scaled drawings.

- A site plan at a scale not smaller than one (1) inch equals forty feet showing the outline of any proposed alterations, additions, or demolitions, new structures, fences, parking spaces, and landscaping, AND
- If you're planning to renovate, add to, or change the use of a building space, you must also provide floor plans at a scale no smaller than one (1) inch equals eight feet.

Although professionally drawn plans are not required, they are encouraged. Scaled drawings are a critical part of all applications and it is important you provide a clear, complete and accurate depiction of what you are proposing.

**Certified abutters list.** A certified abutters list must also accompany your ZBA application. Once you complete the certified abutters list form included with this packet, turn it in to the planning division. Planning staff will compile the list of abutters for you and it will be certified at the city's assessor's office for a fee of \$5 page one, \$2 each additional page. Once this list is certified, the assessor's office will call you and it will be your responsibility to pick it up and include it as part of your completed ZBA application.

**Plot plan.** As part of your completed ZBA application you are required to submit a plot plan that clearly identifies the lot where the requested zoning relief is sought. Plot plan maps—also known as "Assessor's maps" are typically included in the building permit rejection materials you receive from the Division of Inspectional Services. If one has *not* been included, you can also get a plot plan either by going directly to the assessor's office or by going online to the city's parcel look up feature at <http://www.newbedford-ma.gov/assessors/parcel-lookup/>.

**Building permit rejection materials.** Your entire reason for applying to the ZBA begins with the rejection you received from the city's Division of Inspectional Services (building permit denial). You must include all of the materials that this office provides to you as part of your application as it is the foundation upon which you are building your request.

**Fee.** Your application must be accompanied by the appropriate filing fee; if the fee is not properly included; the application is considered incomplete and will not be accepted.

**Other attachments.** Depending on the kind of relief you are looking for, you may need to submit additional materials including, but not limited to:

- If this is a request for a sub-division, the sub-division plans must be attached.
- Condo Conversions or Rooming House Applications must include proposed draft master deed and proposed condo documentation.
- Any materials that will help the ZBA clearly understand your request.

## SUBMITTING YOUR APPLICATION

1. Your building permit is denied/rejected. As a potential applicant you must bring this material to the planning office at city hall and would be provided with this application packet.
2. Once you complete the application and all of the attachments required, you must bring one (1) original and eleven (11) copies of the completed application packet back to city hall with the required filing fee. Your first stop with this material is the planning office where the material will be reviewed for completeness. If something is missing, you'll be told what needs correction and directed to return once you are prepared to have it reviewed for completeness once more.
3. If your application packet is complete and you have your filing fee ready, planning staff will advise you to formally submit the application packet at the city clerk's office (also in city hall).

## WHEN WILL THE BOARD REVIEW MY APPLICATION?

The Zoning Board of Appeals will hear all applications, petitions or appeals within sixty-five days of the application filing date. If the petition is granted, the applicants will be relieved of the restriction(s) which caused refusal of the permit. In certain cases, Special Permits are granted by the Planning Board or City Council rather than the Zoning Board of Appeals. Planning staff will advise you of the date, time and location of your meeting based on your application submission date.

**IMPORTANT!** Although it is not a requirement for submission you may wish to contact an attorney to help with your application and public hearing. The petitioner or their legal representative **must attend** the public hearing.

## WHAT HAPPENS AFTER THE ZBA DECIDES MY PETITION?

The ZBA has fourteen (14) days to file the written decision with the City Clerk's Office.

**If your application (petition) is granted**, and after the official decision is recorded with the City Clerk, there is a twenty (20) day waiting period after which time you will receive a letter from the Department of Inspectional Services telling you how to proceed and obtain the building permit. (*The 20 day appeal period begins from the date of the decision's filing w/ City Clerk, not the date of the decision.*) The letter will advise you that the decision must be recorded at the Registry of Deeds. A building permit may then be issued by the Department of Inspectional Services provided you act upon it within one year.

### Why do I have to pay a filing fee?

Everyone that submits an application to the ZBA is required to submit a non-refundable filing fee, payable by check to the City of New Bedford. The fee covers the cost of processing the decision, including legal advertisements and abutter mailings, all of which is required by Massachusetts General Laws.

The amount of the City of New Bedford's ZBA filing fees vary by type of application. A complete listing of current fees is available within this packet, at the city's planning office and online at <http://www.newbedford-ma.gov/planning/> under the Zoning Board menu button you will find the most current fee schedule.

**If your petition is denied**, after the official decision is recorded with the City Clerk, there is a twenty (20) day period you may appeal to the Massachusetts Superior Court. (*The 20 day appeal period begins from the date of the decision's filing with the City Clerk, not the date of the decision.*) The procedures for appeal are set forth in Massachusetts General Laws Chapter 40A Section 17.

### **WHAT IF I NEED TO REQUEST A POSTPONEMENT?**

All requests for postponement will be considered on the scheduled hearing date. The petitioner must appear before the Board. If that is not possible an appointed representative of the petitioner must appear with a signed letter of authorization to act on their behalf. The appointed representative must be authorized to sign an extension of time limits of approximately 30-90 days. If the Board grants the postponement, an agreed upon hearing date will be set and announced at that time, to accommodate the petitioner and the abutters. The Board will not re-advertise or re-notify abutters of the newly scheduled hearing. The Notice of Hearing will be posted at the City Clerk's Office at City Hall for informational purposes.

### **CAN I WITHDRAW MY APPLICATION?**

You may withdraw your application without prejudice prior to the publication of the notice of a public hearing. If you withdraw prior to the publication of the notice, your filing fee is refundable.

If the public hearing notice has been published, the ZBA must approve your request to withdraw without prejudice at the scheduled hearing date. Once the notice has been published—even if it is only once—no part of the filing fee is refundable.



*City of New Bedford*  
**ZBA VARIANCE APPLICATION**

**CASE #**

**1. SUBMITTAL CHECKLIST**

The following documentation must be submitted, in duplicate (1 Original and 11 Copies):

Have you included...			Planning staff review finds...	
Yes	No		Yes	No
<input type="checkbox"/>	<input type="checkbox"/>	A <u>Completed and Signed Application</u>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	An <u>Existing Conditions Site Plan</u> , drawn to a scale not less than 1 inch: 40 feet, identifying positioning of existing structures must be provided. Your site plan must show footprint and dimensions of rear, front and side distances between structure(s) and boundary lines.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	A <u>Proposed Site Plan</u> showing all proposed alterations or additions with side, front and rear set property lines identified.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<u>Sub-Division Plans</u> if Applicable.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	A <u>Certified Abutter's List</u> prepared by planning staff and certified by the Assessor's Office.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<u>Plot Plan</u> as provided through Department of Inspectional Services or through the Assessor's Office (in person or online through parcel lookup).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<u>Filing Fee</u> in check form made payable to the City of New Bedford.	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Copy of <u>Building Permit Rejection Packet</u> ( <i>Containing Rejected Building Permit and all information submitted with Building Permit Application</i> )	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<u>Owner's Verification</u> including owner's signature and parcel deed for all involved parcels.	<input type="checkbox"/>	<input type="checkbox"/>

**Official Use Only:**

Review of submittal compliance performed by \_\_\_\_\_ of the city's Division of Planning.

Staff review found the application packet to be  complete  incomplete on this date: \_\_\_\_\_.

**This is page 1 of your ZBA Application.**

*Please remove the instruction pages when submitting your completed application packet but keep this as your first page.*



**APPLICATION SPECIFICS**

DIMENSIONS OF LOT/S:	FRONTAGE	DEPTH	AREA in SQ FT		
EXISTING BUILDING/S	# OF BLDGS	EXISTING SIZE	TOTAL SQ FT BY FLOOR	NUMBER OF FLOORS	TOTAL SQ. FT ENTIRE STRUCTURE
	# OF DWELLING UNITS		# OF BEDROOMS		
PROPOSED BUILDING/S	# OF BLDGS	PROPOSED SIZE	TOTAL SQ FT BY FLOOR	NUMBER OF FLOORS	TOTAL SQ. FT ENTIRE STRUCTURE
	# OF DWELLING UNITS		# OF BEDROOMS		EXTENT OF PROPOSED ALTERATIONS
EXISTING USE OF PREMISES:					
PROPOSED USE OF PREMISES:					
EXPLAIN WHAT MODIFICATIONS YOU ARE PROPOSING THAT NECESSITATE THE REQUESTED VARIANCE:	<hr/> <hr/> <hr/> <hr/>				

*If there's a commercial use existing and/or proposed, please complete the following:*

	EXISTING	PROPOSED
NUMBER OF CUSTOMERS PER DAY		
NUMBER OF EMPLOYEES		
HOURS OF OPERATION		
DAYS OF OPERATION		
HOURS OF DELIVERIES		
FREQUENCY OF DELIVERIES <i>(Check frequency)</i>	<input type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER	<input type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER

*If you are also requesting site plan review and special permit/s from the planning board, please specify here:*

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Complete each item that is relevant to your variance request:

	Existing	Allowed/ Required	Proposed
Lot Area (sq ft)			
Lot Width (ft)			
Number of Dwelling Units			
Total Gross Floor Area (sq ft)			
Residential Gross Floor Area (sq ft)			
Non-Residential Gross Floor Area (sq ft)			
Building Height (ft)			
Front Setback (ft)			
Side Setback (ft)			
Side Setback (ft)			
Rear Setback (ft)			
Lot Coverage by Buildings (% of Lot Area)			
Permeable Open Space (% of Lot Area)			
Green Space (% of Lot Area)			
Off-Street Parking Spaces			
Loading Bays			
Number of Ground Signs			
Height of Ground Sign			
Proximity of Ground Sign to Property Line			
Area of Wall Sign (sq ft)			
Number of Wall Signs			

### 3. PARCEL LEGAL DOCUMENTATION

Title Reference to Property \_\_\_\_\_

*(Attach copy of Deed, Certificate of Title & most recent Recorded Plans showing affected lot or lots)*

Is the applicant also the owner?  Yes  No

If no, please attach the following three items to your application and indicate they are attached:

A notarized authorization letter on letterhead from the owner to tenant/buyer for application of this permit.

If the Applicant is Not the Owner, Provide:

A copy of the Purchase & Sale Agreement or lease, where applicable.

A copy of the deed or deeds of abutting parcels if said parcels have been held in common ownership with the subject property at any time since January 1, 1976.

# 4. REQUIRED FINDINGS FOR GRANTING A VARIANCE

Massachusetts General Law Chapter 40A Section 10 requires the “permit granting authority” (which, in this instance is the Zoning Board of Appeals) to make ALL the following findings before a variance can be granted:

**A**

That there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located.

**B**

That due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

**C**

That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw.

**D**

That desirable relief may be granted without substantial detriment to the public good.

The full text of M.G.L. Chapter 40A, Section 10 can be viewed at: <http://www.mass.gov/legis/laws/mgl/>

Because the ZBA must be able to articulate each of these four findings in order to grant a variance, you must make your case as to WHY your application meets each of these four points. ***This is an extremely important question and it is recommended that you answer this VERY carefully.*** You may use an additional sheet if needed.

**A** Describe any circumstances relating to soil conditions, shape or topography which especially affect the land or structure in question but that doesn’t generally affect the zoning district in which your premises is located:

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**B** Describe how circumstances unique to your land or structure would mean a substantial hardship to you if the city were to literally enforce the zoning ordinance:

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**C** Describe how granting you relief would not take away from the purpose of the city’s zoning ordinance:

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**D** Describe why nobody else would be hurt if the city granted your requested zoning relief:

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*City of New Bedford*  
**DEPARTMENT SIGN OFF SHEET**

DEPARTMENT	COPIES	SIGNATURE	DATE
ZBA BOARD MEMBERS City Hall #303	5		
CITY PLANNING City Hall #303	1		
CITY CLERK City Hall #118	Original		
CITY SOLICITOR City Hall #203	1		
INSPECTIONAL SERVICES City Hall #308	1		
DEPT OF PUBLIC INFRASTRUCTURE 1105 Shawmut Avenue	1		
CONSERVATION COMMISSION City Hall #304	1		
FIRE PREVENTION 1204 Purchase Street	1		
<b>TOTAL COPIES</b>	<b>12</b>		

**This sheet is NOT part of your ZBA application but you will need to deliver your applications to the appropriate departments once you have been given the go-ahead by planning staff and have the respective departments sign/date this sheet for you. Once this sheet is completed you will need to turn this into the city's planning division at city hall.**



*City of New Bedford*  
**REQUEST for a CERTIFIED ABUTTERS LIST**

This information is needed so that an official abutters list as required by MA General Law may be created and used in notifying abutters. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

SUBJECT PROPERTY			
MAP #		LOT(S)#	
ADDRESS:			
OWNER INFORMATION			
NAME:			
MAILING ADDRESS:			
APPLICANT/CONTACT PERSON INFORMATION			
NAME (IF DIFFERENT):			
MAILING ADDRESS (IF DIFFERENT):			
TELEPHONE #			
EMAIL ADDRESS:			
REASON FOR THIS REQUEST: <i>Check appropriate</i>			
<input type="checkbox"/>	ZONING BOARD OF APPEALS APPLICATION		
<input type="checkbox"/>	PLANNING BOARD APPLICATION		
<input type="checkbox"/>	CONSERVATION COMMISSION APPLICATION		
<input type="checkbox"/>	LICENSING BOARD APPLICATION		
<input type="checkbox"/>	OTHER ( <i>Please explain</i> ):		

**Once obtained, the Certified List of Abutters must be attached to this Certification Letter.**

**This sheet is NOT part of your ZBA application but you will need to submit this form to the Planning Division Room 303 in City Hall, 133 William Street. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).**

**Official Use Only:**

As Administrative Assistant to the City of New Bedford's Board of Assessors, I do hereby certify that the names and addresses as identified on the attached "abutters list" are duly recorded and appear on the most recent tax.

**Carlos Amado**

Printed Name

Signature

Date



*City of New Bedford*  
**ZBA APPLICATION FEES**

<b>RESIDENTIAL</b>	
Dimensional variance	\$350.00
Variance for allowed uses	\$350.00
Special permit	\$350.00
Determination of finding	\$350.00
Signage and flag poles (residential)	\$350.00
Special permit for residential driveway	\$300.00*
Administrative appeal under MGL c.40A §8	\$350.00
<b>COMMERCIAL OR COMMERCIAL RESIDENCE</b>	
Variance or special permit	<i>\$750.00 up to 10,000 sq.ft. plus \$200 for every additional 10,000 sq.ft.</i>
Signage and flag poles (commercial)	\$750.00
Administrative Appeal under MGL C 40A §8	\$750.00
<b>WIRELESS COMMUNICATIONS</b>	
Wireless consultancy fee	\$2,500.00**

*\*Advertising only*

*\*\* Reduced fee may be applicable with multiple applications*

Under MGL CHAPTER 40 the ZBA is mandated by law to advertise your request for an appeal two times prior to the scheduled hearing date. The application fees cover the costs of advertising in the Standard Times and also all copying and postage expenses the city incurs in the processing of your application.

Upon consideration of any and all requests (meaning, if your application is withdrawn, extended, there's been a change in plans/reviews, etc.) you will still be required to pay a \$100.00 fee if there has been no advertising and a \$350.00 fee if any portion of advertising has occurred.