

REQUIREMENTS TO APPLY FOR A VARIANCE¹

- 1. If denied by the Building inspector; reason and/or denial form with signature by the Building Inspector.**
- 2. Complete form of petition to the Board of Appeals (must be signed by the Building Inspector).**
- 3. Copy of legal description of property (narrative from Registry of Deeds). Description must include accurate and current owner's deed book and page reference – not Plan Book.**
- 4. Brief (short narrative of what will be done). Must show accurate measurements of all lot lines of proposed project.**
- 5. List of abutters from Town Assessors office.**
- 6. Copy of registered plot plan which is stamped and certified by a civil engineer, if necessary.**
- 7. Letters of support from applicable town departments, if necessary.**
- 8. Parking plan, if necessary.**
- 9. Zoning district must be entered on the petition.**

Submit six (7) copies, plus the originals, the applicable fee, and abutters list. The fee covers the cost of the public hearing, advertisement, and notification to abutters.

A copy of the Zoning By-laws is on our webpage www.spencerma.gov or may be obtained from the Town Clerk for a fee.

If all information is not available for the hearing, an additional \$25.00 fee may be required for a continuance.

Additional fees may be determined by the ZBA if a professional finding is deemed necessary (i.e. third party review, etc.)

¹ See other side for requirements which must be met for a variance. Variances are very hard to get approval and certain criteria (hardship) must be met.

VARIANCE PROCEDURES

Article 7 – Administration, 7.3 Variances.

7.3.1 Review Procedure

A. Public Hearing and Decision. The Zoning Board of Appeals shall hold a public hearing no later than 65 days after the filing of an application. Notice of the public hearing shall be as prescribed by MGL Ch. 40A Sec. 11. The Zoning Board of Appeals shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the variance application. For a variance to be granted, all 3 of the members of the Zoning Board of Appeals must vote to grant the variance.

B. Reports from Town Boards or Departments. The Zoning Board of Appeals shall transmit forthwith a copy of the application and plan(s) to other boards, departments, or committees as it deems necessary or appropriate for their written comments. Any such entity to which applications are referred for review shall make such recommendation or submit such comments as they deem appropriate and shall send a copy thereof to the Zoning Board of Appeals and to the applicant. Failure of any such entity to make a recommendation or submit a report within 35 days of receipt of the application shall be deemed a lack of comment.

C. Effective Date of Variance. No variance or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Worcester District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or it has been dismissed or denied.

D. Time Limitation on Variance. A variance shall lapse if a substantial use thereof has not been commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause within one year from the granting of the variance or other period of time as specified by the Zoning Board of Appeals, not to exceed one year from the date of grant thereof. An extension not to exceed six months may be granted by the Zoning Board of Appeals provided a request is filed for the extension prior to the expiration of the one year period.

7.3.2 Mandatory Findings.

Before the granting of any variance from the terms of this bylaw, the Board of Appeals must specifically find that:

A. Owing to circumstances relating to the soil conditions, shape or topography of 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 by-law would involve substantial hardship, financial or otherwise to the petitioner or appellant; and

B. 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 this by-law.

***7.3.3 Conditions.* The Zoning Board of Appeals may, in order to minimize impacts on abutters or the neighborhood caused by the granting of a variance, impose such conditions, safeguards and limitations as it deems appropriate to protect the abutters or the neighborhood.**