

ZONING BOARD OF APPEALS TOWN OF WINTHROP

- (1) Original application must be complete when filed with the Town Clerk. Local Building Commissioner must review all applications for completeness. Acceptance of any applications by the Town Clerk shall not necessarily be deemed complete. Zoning Board of Appeals (ZBA) reserves the right to request further information for any and all applications filed with the Town Clerk.

- (2) Original application must be filed in the name of the record owner of the property. If the record owner of the property is unable to attend the public hearing, a letter of authorization from record owner must accompany original application.

- (3) Original application must include the following:
 - (a) **Certified Plot Plan**, otherwise referred to as a "Certified Plan of Land," showing, among other things, property area, relevant dimensions, existing and proposed buildings, structures, parking spaces and driveways. The plan must also include a chart showing all required dimensional requirements in the district where construction is proposed and comparing them to dimensions proposed. The plan must further include zoning classification of property and particular relief being sought from ZBA. Preferable size of the plan is 11"x17". A registered land surveyor or civil engineer must certify the plan.

 - (b) **Certified Abutters' List** which may be obtained from local Assessor's Office. Assessor must certify that names and addresses of all parties-in-interest are accurately listed therein.

- (c) **Recorded Deed or Certificate of Title** of subject property, along with a true and complete copy of any pending Purchase and Sale Agreement, if any.
- (d) **Photograph** of subject property including, but not limited to, any and all areas pertaining to subject application.
- (e) **Notice of Appearance or Letter of Representation** from attorney representing applicant, if any.
- (f) **If applicable:**
 - (i) **Written Notice from local Building Commissioner** denying request for permit, certificate of occupancy or enforcement action; and/or
 - (ii) **Floor Plans or Blue Prints** of existing and proposed structures on subject property. A registered architect or structural engineer must certify floor plans and/or blue prints.

(Applicant should arrange to obtain a certified plot plan and certified abutters' list as soon as possible, as these two requirements are usually the most time consuming.)

- (4) Original application, along with required documents and materials (*see* ¶ 3 above), must be filed with Town Clerk. Appropriate fees and costs must be paid at time of filing.
- (5) Original application, along with required documents and materials (*see* ¶ 3 above), must be copied in duplicate form. Applicant must furnish Town Clerk with ten (10) copies of original application and all attachments, documents, exhibits, plans and so forth.

Guide to Town of Winthrop's Zoning Board of Appeals' Application Process

Most people do not give a second thought to the subject of *zoning*. Until, that is, they wish to open a business, build an addition or install a swimming pool and the local Building Inspector rejects their request for a building permit or certificate of occupancy because the proposed use or construction violates a provision of local zoning law. Zoning regulates uses and dimensional boundaries (*i.e.*, height) of privately-owned buildings and land. Zoning protects neighborhoods from construction of buildings and structures that are offensive and unsuitable in particular zoning districts. For instance, some structures may result in additional traffic, noise or pollution or may be constructed too close to neighboring lands.

When a proposed project does not fit the use or dimensional requirements of local zoning law, the Zoning Board of Appeals (ZBA) may grant relief from the strict interpretation of law. Relief may be granted after the ZBA conducts a public hearing and issues a written decision.

1. What is the Zoning Board of Appeals (ZBA)?

The ZBA is a volunteer board of professionals consisting of three (3) members and three (3) associate members, all of whom are appointed by Town Council. The ZBA also has a clerk/secretary who works under the general direction of the ZBA and who performs many administrative duties on its behalf.

2. What are the powers of the ZBA?

The ZBA has the following powers and authority to:

- (a) hear and decide appeals of any person aggrieved by reason of his/her inability to obtain a permit from the local Building Inspector under the provisions of the Zoning By-Laws of the Town of Winthrop. Chapter 17 of the Winthrop Town Code;

- (b) hear and decide applications for special permit, except as otherwise provided in the Zoning By-Laws of the Town of Winthrop. Chapter 17 of the Winthrop Town Code;
- (c) authorize, upon appeal or upon petition in cases where a particular use is sought for which no permit is required with respect to a particular level of land or to an existing building thereon, a variance from the terms of the Zoning By-Laws of the Town of Winthrop, Chapter 17 of the Winthrop Town Code;
- (d) impose limitations, both of time and use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time-to-time thereafter; and
- (e) revise or affirm, in whole or in part, or modify any order or decision and make such order of decision as ought to be made, and, to that end, shall have all the powers of the officer from whom such appeal is taken and may issue or direct issuance of a permit.

3. When do I need to apply for a public hearing before the ZBA?

If you receive a written notice from the local Building Commissioner denying your request for permit, certificate of occupancy or enforcement action, you have thirty (30) days from the date of that written notice to file an application for appeal with the Town Clerk. A public hearing will be scheduled where you will have an opportunity to explain and demonstrate why you believe you are in compliance with local zoning law or why relief should be granted to you.

4. Where do I obtain a standard-form application to apply for a public hearing?

You may obtain a standard-form application for a public hearing from the local Building Department. You may also obtain Instructions for Public Hearing from the Building Department regarding application requirements. You may also download the form from the Town's Website.

5. Where do I file my application for a public hearing?

File your application and appropriate filing fees with the Town Clerk after consulting with the Building Commissioner who shall review your application for completeness. Your application should be filed in-person or by someone representing you. A public hearing is an administrative proceeding. Like all parties-in-interest, you have specific legal rights under Massachusetts General Laws and zoning law. You are encouraged to consult with an attorney, architect and other professionals before filing your application with the Town Clerk.

6. How much does it cost for filing an application with the Town Clerk?

Subject to change, the fee for filing an application is currently \$375.00 payable to *Town of Winthrop*. You must also pay an additional \$100.00 payable to *Winthrop Sun Transcript* for publication of required legal notices. All payments must be by check or money order. All fees and costs must be paid to the Town Clerk when filing your application.

7. When will my public hearing be scheduled?

Except for special circumstances, hearing dates are scheduled in the order in which applications are received. Hearing dates are tentative and subject to change, pending formal notification process. Typically, applications should be filed by the first Thursday of the month. Legal notice of hearing and the time and place is published in the *Winthrop Sun Transcript* at least fourteen (14) days prior to hearing date. The

ZBA generally conducts its hearings on the last Thursday of every month.

Notice is mailed to applicant and his/her legal representative, as well as other persons deemed to be affected, including immediate neighbors and other parties-in-interest; local public officials, departments, commissions and boards, community groups; and any party who has requested notification. By law, hearing cannot take place until all notification requirements have been satisfied by the ZBA.

8. What is the public hearing?

You must appear at the public hearing on the date, time and location specified in the notice sent to you. You will be called upon to present your case. In accordance with applicable state and local zoning law, you must demonstrate why the relief you are requesting ought to be granted by the ZBA. You have the right to be represented by an attorney, architect or other professional. Be prepared to demonstrate your legal interest in the property. Also be prepared to present supporting evidence such as photographs, structural and construction drawings, tax bills, petitions signed by abutters and any other relevant evidence. The ZBA will then take testimony from those who favor your application and then from those who oppose your application. If necessary, you will have an opportunity to rebut what you have heard. In some cases, the ZBA will make its decision on that date. In other cases, the ZBA may choose to defer its decision to a later date. The ZBA is required to file its decision within 100 days of the date of filing of an application, although that date may be extended to allow applicant to provide additional documentation and/or to provide time for further review.

If you are unable personally to appear at public hearing, you may designate someone to appear for you as your agent. Your agent will be required to furnish the ZBA with a letter of authorization from you. Your agent may proceed forward with your case or request a continuance. The ZBA may in its discretion grant a continuance, but it is not obligated to do so. The ZBA may require you to appear before

taking any action.

9. What is a written decision?

The written decision is your final legal document and remains a part of the permanent record. In order to expedite your application process, you may prepare and submit a proposed written decision to the ZBA no later than fourteen (14) days from the date of public hearing. You may want to consult with an attorney to assist you.

If you prepare and submit a proposed written decision, the language in your decision must correspond to the "Reason for Denial" specified in the notice that you received from the Building Commissioner, if any, and your application. Prepare your decision in accordance with the ZBA's established guidelines. Those guidelines are as follows:

- (a) decision must be typewritten with single-spaces;
- (b) decision must be written in the third-person (*i.e.*, appellant, applicant or petitioner). Avoid use of first-person pronouns like *I, me* or *my*.
- (c) deliver your written decision to the Zoning Board of Appeals *c/o* Town Clerk's Office, Town Hall, One Metcalf Square, Winthrop 02152 no later than fourteen (14) days from the date of public hearing;
- (d) upon receipt of your written decision, the ZBA shall review it for final editing. Following final editing, the ZBA shall endorse the decision. After all signature requirements are met and necessary conditions or *provisos* complied with, the ZBA shall file or record its decision with the Town Clerk's Office. The ZBA shall mail you and other parties-in-interest a copy of the decision reflecting the *date of recording* with the Town Clerk's Office.

However, should you decide not to prepare and submit a proposed decision, the ZBA shall prepare a written, standard-form decision in due course which, after all signature requirements are met and necessary *provisos* complied with shall be filed or recorded with the Town Clerk's Office. The ZBA shall mail you and other parties-in-interest a copy of the decision reflecting the *date of recording* with the Town Clerk's Office.

The *date of recording* is when the clock starts running for the mandatory twenty (20)-day legal appeal period during which time no permit or occupancy certificate is issued. Once this time has elapsed, you may contact the Building Department for further instruction.

10. Why should I prepare a written decision if the ZBA is willing to do it for me?

Preparing your own written decision will expedite the administrative process. Generally speaking, decisions submitted to the ZBA no later than fourteen (14) days after public hearing are filed with the Town Clerk's Office within thirty (30) days from the date of public hearing. Decisions are required to be filed by the ZBA within 100 days of the date of filing of an application. However, relying on the ZBA to prepare a written decision for you may delay the process. It is extremely important and certainly in your best interest to complete the process to its final step. The permit and/or occupancy certificate cannot be issued until all of the paperwork is in place. Should a Decision not be filed with Suffolk County Registry of Deeds by applicant and a permit not secured within two (2) years from the date a Decision is filed with the Town Clerk's Office, the relief granted is no longer valid. If the process is not finalized, it will be necessary to initiate the entire process, once again, from the very beginning!

Amount Due _____
Paid _____
Date _____

TOWN OF WINTHROP
MASSACHUSETTS



BOARD OF ASSESSORS

One Metcalf Square
Town Hall - Room 1
Winthrop, Massachusetts 02152

Allen E. Maruzzi,
Chairman

Peter T. Gill

Telephone: 617/846-2716
Facsimile: 617/846-4780

CERTIFICATION OF ABUTTERS

PROPERTY OWNER.....

MAILING ADDRESS.....

PROPERTY LOCATION.....

ASSESSORS MAP/PARCEL.....

APPLICANT.....PHONE.....

APPLICANT SIGNATURE.....

AUTHORITY REQUESTING LIST.....

DATE SUBMITTED.....

LIST REQUESTED.. 500ft___ 300ft___ 150ft___

Abutter to Abutter (MGL Ch 40a-11)___ Abutters (MGL Ch131-40)___

I, _____, acting as a custodian of assessment records

do hereby certify that the attached documents contain true and complete information from the most recent tax list of the Town of Winthrop, Massachusetts.

I further state that these documents include the names and addresses of abutters as requested above _____

Date: _____

ASSESSOR'S OFFICE
Town of Winthrop

Massachusetts General Law c. 40A, s. 11, "The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes."

Massachusetts General Law c. 131, s. 40, "Any person filing a notice of intention with a conservation commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters within one-hundred feet of the property line of the land where the activity is proposed, at the mailing addresses shown on the most recent applicable tax list of the assessors, including, but not limited to, owners of land directly opposite said proposed activity on any public or private street or way, and in another municipality or across a body of water."

Assessors Office requires at least a two day processing turn around

"The applicant is solely responsible for requesting the appropriate abutters list required by the applicable Mass General Law."

