

**Town of Seekonk**  
**Zoning Board of Appeals**  
**A GUIDE TO THE APPEALS PROCESS – Helpful Information**

**The Zoning Board of Appeals** is empowered to hear and decide applications for Special Permits, and petitions for Variances from property owners or duly authorized applicants, as well as, appeals or petitions from any person aggrieved by reason of inability to obtain a permit or enforcement action from any administrative officer under the provisions of the **Town of Seekonk Zoning By-laws** or **Chapter 40A** of the **Massachusetts General Laws**, by the Southeastern Regional Planning Council, or by any person including an officer or Board of the Town of Seekonk, or of an abutting city or town aggrieved by an order or decision of the Building Official, or other administrative official, in violation of any provision of the **Town of Seekonk Zoning By-laws** and/or **Chapter 40A** of the **Massachusetts General Law**.

- **Variances** are a relaxation of the terms of the Zoning By-Laws where such variance will not be contrary to the public interest or nullify or substantially derogate from the intent of the Zoning By-Laws and where, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures but not affecting generally the zoning district in which it is located and not the result of any action or inaction of the owner or applicant, a literal enforcement of the Zoning By-Laws would involve substantial hardship, financial or otherwise to the petitioner or appellant. Establishment or expansion of a use or activity otherwise prohibited (i.e. a use variance) shall not be allowed by variance. Conditions, safeguards and limitations of both time and use may be applied. Every variance must be duly recorded before it expires in order to take effect.
- **Special Permits** allow a use that would not be appropriate generally or without restriction throughout the zone, but which if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, or general welfare. Such uses may be permitted in such zone by special permit, by specific provision for such special permit uses made in the Zoning By-Laws. Special permits shall be issued only for uses which are in harmony with the general purpose and intent of the Zoning By-Laws and only upon subjecting the specially allowed use to general or specific provisions set forth in the Zoning By-Laws, as appropriate. Special permits may impose conditions, safeguards and limitations on time and/or use. Every special permit must be duly recorded before it expires in order to take effect.
- **Appeals** are petitions to the Zoning Board of Appeals under **Section 2.1.2** of the Zoning By-Laws in accordance with **§ 8** of **Chapter 40A** of the **Massachusetts General Laws**, including petitions from any person aggrieved by reason of inability to obtain a permit or enforcement action from any administrative officer under the provisions of the **Town of Seekonk Zoning By-laws** or **Chapter 40A** of the **Massachusetts General Laws**, by the Southeastern Regional Planning Council, or by any person including an officer or Board of the Town of Seekonk, or of an

abutting city or town aggrieved by an order or decision of the Building Official, other administrative official, or Board of the Town of Seekonk in violation of any provision of the **Town of Seekonk Zoning By-laws** and/or **Chapter 40A** of the **Massachusetts General Laws**. Prior to making a decision on an appeal, including under **Section 2.1.3**, the Board may request the opinion of the Planning Board and one or more expert consultants selected by the Board as qualified to advise as to whether a proposed use will conform to performance standards contained in the Zoning By-Laws.

**Application Requirements: (Application form enclosed)**

Applications for relief from the Zoning Board of Appeals shall be made on the official Application form. Applications are available through the Zoning Board of Appeals office, or can be downloaded from the Town's Website. Completed application forms and the required submissions must be included in the Application Packet. Please submit 12 collated packets - (1) Original and (11) copies - of the application and plans to the Office of Town Clerk, Seekonk Town Hall, 100 Peck Street together with the application fee of \$225.00. One copy of the application bearing the date and time of the filing as certified by the Town Clerk shall be filed forthwith by the petitioner with the Office of the Zoning Board of Appeals. The application submission requirements are further explained below.

**Site Plans/Certified Plot Plans** Contents of Certified Plot Plan:

The certified plot plan shall indicate the location of the existing foundation, and/or accessory buildings such as porch, garage, etc. The location shall be fixed by perpendicular distances from existing street lines and property lines. It shall also indicate zoning designation, top of foundation elevation, cellar floor elevation, highest groundwater elevation encountered at the foundation area, relating bench mark, assessors plat and lot numbers, street designation (public, private, accepted, non-accepted), abutters, easements, north arrow, and appropriate scale. A statement by a Massachusetts Professional Land Surveyor shall appear: "I certify that the location of the foundation is as shown on this plan and the lot does (or does not) lie within a flood hazard zone of the countywide map panel number:"[ ] "on which said lot is shown, dated:" [ ] "on the flood insurance rate map (FIRM) of Bristol County". This certification shall be based on the flood insurance rate map (FIRM) of Bristol County countywide panel numbers 25005C0114F, 25005C0118F, 25005C0202F, 25005C0203F, 25005C0204F, 25005C0206F, 25005C0208F, or 25005C0212F dated July 7, 2009; or panel numbers 25005C0214G, 25005C0216G or 25005C0218G dated July 16, 2014; or panel numbers 25005C0114G, 25005C0202G, 25005C0203G, or 25005C0204G dated July 16, 2015 or such subsequent map panels or amendments thereto as may be duly authorized and adopted by the Federal Emergency Management Agency to supersede any of the above countywide panels.

**“Certificate of Good Standing”:** (enclosed)

The Certificate of Good Standing must be completed by the applicant and initially submitted to the Tax Collector’s Office to be certified that the subject property and applicant/property owner are in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges. The Tax Collector’s Office requires several business days to certify a Certificate of Good Standing and will call the applicant or his/her agent when the certificate is ready for pick-up. The certificate cannot be released directly to the ZBA Clerk, but only to the applicant, his/her family or agent.

**Certified List of Abutters Form G:** (enclosed)

The applicant must submit the Form G to the Assessor’s Office to request a Certified List of Abutters, the three copies of mailing labels and the 300’ Assessor’s radius map. The Board of Assessor’s requires a minimum of seven (7) business days to certify a list of abutters. There is a minimum fee of \$25 to complete the above documents. The Assessor’s Office will contact the applicant or his/her agent when the list is ready for pick-up. The list cannot be released directly to the ZBA Clerk, but only to the applicant, his/her family or agent.

**For Appeals to the Board:**

A copy of the Zoning Determination Letter (if applicable) or other formal, written determination from any administrative officer or Board, or a statement by an aggrieved party describing an action or inaction by an administrative officer or Board from which an appeal may be taken pursuant to **§ 2.1.2.1** of the **Seekonk Zoning Bylaws** or **§ 8** of **Chapter 40A** of the **Massachusetts General Laws**. Zoning Determination Letter may be obtained from the Zoning Enforcement Officer/Building Inspector for a fee of \$35.

**Fees:**

An application fee of \$225.00 per request for each, appeal, variance and/or special permit must accompany your application. The Board of Appeals reserves the right to assess the petitioner the cost of fees of any consultants engaged by the Board of Appeals under authority granted in **Section 2.1.2 of the Zoning Bylaws**. Additionally, the applicant is responsible for the cost of publication of the legal ad in a newspaper of general circulation (*Sun Chronicle*). The Zoning Board of Appeals Clerk will inform applicants of the current advertising costs. Applications must be advertised for two consecutive weeks, with the first publication not less than 14 days prior to the hearing date. The Zoning Board of Appeals Clerk prepares and submits the legal advertisement to the newspaper. The Clerk will contact the petitioner with the cost of the Legal Ad and the petitioner shall remit payment in the form of a check payable to The Town of Seekonk. **The application will not be heard until the Legal Ad has been paid for.** The Zoning Board Clerk will mail the notification of the public hearing to abutters. Notices to abutters are mailed shortly before the first ad run date, or about two weeks before the hearing.

**Waiver of Requirements:**

Notwithstanding the foregoing, the Board may, in its sole discretion, in public session waive any of the non-statutory provisions, or may require additional information as seems necessary.

**Public Hearing****Hearing Schedule:**

By law the Zoning Board of Appeals must open its hearing on an application not later than 65 days after the filing date. With regard to appeal and variance applications the Zoning Board of Appeals must make a decision within one hundred (100) days of the filing of the application with the Town Clerk. With regard to special permits the Zoning Board of Appeals must take final action within ninety (90) days from the date of the public hearing. All applications to the Zoning Board of Appeals require a public hearing.

**Public Hearing:**

At the public hearing, the petitioner presents their case in detail to the Zoning Board of Appeals. The applicant or his/her representative must attend the public hearing and present their case before the Board. Failure by the petitioner or their authorized representative to attend the public hearing may result in the denial of the petition or the Board may decide the matter based on the material and evidence before it.

Hearings are generally held on Monday evenings in the Board of Selectmen's meeting room at the Town Hall, 100 Peck Street. All meetings are open to the public.

**Decisions:**

Generally, a decision is reached by the Zoning Board of Appeals at the conclusion of the public hearing. Hearings may however, run over several meetings, and the Zoning Board of Appeals may continue an application to a date certain for additional information, testimony, or to allow for interested parties to submit briefs on an issue raised by an application or during the public hearing.

After an appropriate motion and vote by the Zoning Board of Appeals on an application; a written, Notice of Decision documenting the ZBA's action is prepared and signed by the Board. Under **Massachusetts General Laws**, the Zoning Board of Appeals has 14 days after reaching a decision on an application, petition or appeal in which to file an executed a written Notice of Decision. Upon execution of a Notice of Decision it is filed with the Town Clerk. Copies of the Notice of Decision, bearing the stamped time and date of filing with the Town Clerk, are issued to the owner; appellant, petitioner, or applicant (if different from the owner); to the parties in interest; and to every

person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. A copy of the decision must also be forwarded to the Planning Board and Building Commissioner.

A decision of the Zoning Board of Appeals may be appealed for a period of twenty days after it is filed with the Town Clerk as provided for in **§17 of Ch. 40A** of the **General Laws**. During the appeal period no construction permits will be issued; nor may work commence. The time stamp on the decision from the Office of the Town Clerk begins the 20-day appeal period.

After the 20-day appeal period on the decision has expired and before the decision can be recorded with the Bristol County Registry of Deeds; the Town Clerk must certify that 20 days have elapsed after the filing of the decision and either that no appeal has been filed or if such appeal has been filed, that it has been dismissed, denied or otherwise resolved.

### **Recording Instructions:**

After the 20-day appeal period has lapsed with no appeals, the applicant must bring the original Written Decision to the Town Clerk's Office to obtain a Certificate indicating there have been no appeals of the decision filed. The applicant is responsible for recording both the Decision and Certificate with the Bristol County Registry of Deeds located at 11 Court Street, Taunton, MA. The fee for recording the Decision is \$75.

Where an applicant, petitioner or appellant requests approval of an application based on the failure of the Zoning Board of Appeals to act within the statutory time limits and after notice of such an assertion has been filed with the Town Clerk not more than fourteen (14) days after the expiration of the applicable statutory time limit; a copy of the application, petition or appeal together with a the certification of the Town Clerk that the application has been approved by reason of the Board's failure to act and, after notice to the parties in interest by the appellant, petitioner or applicant, whether any appeals of the approval by default have been filed and the status of any such appeals shall be recorded with the Bristol County Registry of Deeds located at 11 Court Street, Taunton, MA.

After the Decision and Certificate(s) have both been recorded, the applicant must bring the recording receipt back to the Town Clerk and Building Inspector's Office.

## **IMPORTANT!**

**The Zoning Board of Appeals provides zoning relief only. The ZBA Decision is not a building permit, applicants granted relief must still apply for a building permit and seek approval from all the Town's regulatory Boards and Commissions, as applicable to a particular project. The Building Inspector SHALL NOT issue a permit until the recipient submits certification from Bristol Country Registry of Deeds that the decision has been recorded and that all other required approvals or permits have been obtained from the appropriate Town body or bodies including but not limited to the Board of Selectmen, Planning Board, Board of Health, and Conservation Commission.**