

Town of Shelburne: Zoning Board of Appeals

FILING FEE: \$100

Special Permit or Variance, or other Zoning Relief: Overview and Instructions for Filing

If you would like assistance filling out the application, if you have any questions about the special permits, variances or other zoning relief process or if you would like any waivers from the requirements for a small project, it may be helpful to meet with the ZBA before preparing your application and plan. The Board meets at 7 PM on the first Thursday of each month at the Town Hall.

STEP I. Read the complete “Procedural Rules and Regulations” of the Zoning Board of Appeals of the Town of Shelburne, MA available at Town Hall and online at: www.townofshelburne.com/zoning_b.html.

[The text of the Shelburne Zoning Bylaw is available at <http://www.townofshelburne.com/zoning>.

The text of the Massachusetts Zoning Act is available online at

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A>]

STEP II. File for a building permit/change of use with the Franklin County Cooperative Building Inspector, 12 Olive St., Greenfield, MA 01301. Phone (413) 774-3167, email info@frcog.org. If the Building Inspector decides your application requires a special permit, variance or other zoning relief, obtain an appropriate application form available at Town Hall, 51 Bridge St., Shelburne Falls.

STEP III. Prepare your application package. This package shall include:

1. Application for Special Permit, Variance or other Zoning Relief [See Attachment #1 of this packet.]
 - Name of applicant
 - Phone number
 - Mailing address
 - Status of applicant: owner, purchaser, lessee or other
 - Name and address of property owner if different from the applicant
 - Parcel ID: map#, street#, lot#, book/page from property deed, and the designated 9-1-1 street address.
 - Lot description: size/area, frontage, setbacks—front, rear, left side, right side
 - Existing use of structure/property
 - Applicable sections(s) of the Zoning Bylaws
2. Plan - a full description of your proposed Project/Work/Use, including:
 - a. All boundary line information pertaining to the land sufficient to permit location of same on ground with existing and proposed topography at 2 foot contour intervals and the location of easements, wetlands, streams, water bodies, drainage swales, areas subject to flooding and unique natural features.
 - b. Existing and proposed buildings and structures, including fences, loading areas, accessory buildings, signs, waste disposal areas, and storage areas, with proposed building elevations or renderings; utilities and snow disposal methods.
 - c. Water provision, including fire protection measures.
 - d. Sanitary sewerage.
 - e. Storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in the Planning Board’s Subdivision Rules and Regulations.

- f. Parking, walkways, driveways, and other access and egress provisions.
 - g. Existing trees 10" caliper or better and existing tree/shrub masses; proposed planting, landscaping, and screening.
 - h. Existing and proposed exterior lighting.
 - i. Compliance with all applicable provisions of the Shelburne Zoning By-Law
 - j. Signage.
- Your site descriptions/plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1-inch = 40-feet.
 - You will need to provide a digital copy of your plan and a minimum of 11 paper copies of your plan—one each for the, Planning Board, Conservation Commission, and Board of Health; one copy each for the 5 members of the ZBA; one copy for the Town Clerk; one copy for the ZBA Public Documents File; and at least one copy for your own files.

Note:

- After reviewing your application, the ZBA may require narrative assessments or technical reports of the on-site and off-site impacts of the proposed project, including traffic, drainage, noise, and other environmental factors, or additional information that the ZBA feel is necessary in order to make a decision in the best interests of the Town of Shelburne. The ZBA may require that such narrative assessments or technical reports be prepared by qualified experts at the applicant's expense.
- Failure by the applicant to submit any of the required materials may constitute grounds for denial of the special permit, variance or other zoning relief application.

Waiver of Technical Compliance [See Attachment #5]

The ZBA may, upon written request of the applicant **prior** to the submittal of your application package to the Town Clerk, waive any of the technical requirements of the "description of your Project/Work/Use" listed above where the project, in the judgment of the ZBA and based upon the scale of the project, requires relatively simple plans. If any waivers are granted, the Waiver of Technical Compliance Form [Attachment #5 of this packet] must be included in your full application package.

STEP IV. Notification of Abutters and Neighboring Towns

Mass General Laws (Chapter 40A, Section 11) requires notice to be sent to the following parties in interest:

"petitioners, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the petitioner(s) as they appear on the most recent applicable tax list, notwithstanding that the land of any such owners is located in another city or town, the planning board of the city or town, and the planning board of the city or town, and the planning board of every abutting city or town."

The Applicant must obtain an official abutters list from the Assessors' Office of the Town of Shelburne, located in Town Hall. The official Abutter's List shall be included in your application package. The cost of the mailing to the abutters is covered by your filing fee.

STEP V. Notification of other Boards of the Town of Shelburne [see Attachment # 6]

The applicant is required to submit full copies of your application package to the Shelburne Planning Board, Conservation Commission, and Board of Health. These committees will have the opportunity to conduct a review of your application and are to submit comments to the ZBA within thirty-five (35) days of receipt of your special permit, variance or other zoning relief application. It is the responsibility of the applicant to submit the copies to each of the three boards and to obtain a dated signature from a representative of the board certifying they have received a copy for review. The Town Administrator has a list of who is authorized to sign for each of these Boards. The applicant must use Attachment #6 of this application packet for this certification.

STEP VI. FILING PROCEDURE

1. Preliminary Review of Application Package

Take your application to the Chair, Clerk or Administrative Assistant of the Zoning Board of Appeals for certification that it includes the following:

- Attachment #1 – Application for Special Permit, Variance or other Zoning Relief
- Project Documents:
 - Project/Work/Use Plan including appropriate documentations – seven paper copies for the ZBA
 - Project/Work/Use Plan in a digital file.
 - Attachment #5 – Waiver of Technical Compliance Form - if applicable
 - Copy of letter from the Building Inspector – if applicable
- Attachment #6 – Certification of Receipt of your Application and Project Documents by Boards in Shelburne
- List of Abutters from the Shelburne Assessors Office
- Permit Fee in check or money order payable to the Town of Shelburne

If the application is complete, the Chair, Clerk or Administrative Assistant of the Zoning Board of Appeals will acknowledge this by signing and dating Attachment #1. Your application package must be complete before filing with the Town Clerk.

2. Town Clerk's Office

Once you have had your application package certified, take your complete package and submit it to the Shelburne Town Clerk. Please keep a copy of the entire application package for your own records. The Town Clerk will certify the date and time of filing of your application.

3. Zoning Board of Appeals

It shall be the responsibility of the applicant to supply all supporting documents with the application. The ZBA may require additional documentation it deems necessary to allow them to make a decision in the best interests of the Town of Shelburne. No communications from the Building Inspector absolves the applicant from this responsibility.

STEP VII. PUBLIC HEARING

The Board will schedule a public hearing on the application in conformance with the provisions of M.G.L., Chapter 40A Section 9, Section 10 and Section 15. The Shelburne Zoning Board of Appeals "Procedural Rules and Regulations" describes the hearing process.

Notification of the public:

The Town will publish a notice of the public hearing in a newspaper of general circulation in the town in each of two successive weeks, the first not less than 14 days before the scheduled hearing and shall post notice of the hearing in the Town Hall 14 days before the hearing date. (MGL Ch. 40A Sec 11) The cost of this notice is covered by your filing fee.

Notification of Abutters and Neighboring Towns:

The Town will send notice of the public hearing as described in MGL Ch. 40A Sec 11.

Time Limits:

Special Permits: The ZBA will schedule a public hearing on your application within 65 days of the date of filing with the Town Clerk. The decision of the ZBA shall be made within 90 days following the closing of the public hearing. (MGL Ch. 40A Sec. 9)

Variations and Other Zoning Relief: The ZBA will schedule a public hearing on your application within 65 days of the date of filing with the Town Clerk. The decision of the ZBA shall be made within 100 days after the date of filing with the Town Clerk (M.G.L. c. 40A, section 15).

Reviews of the Town of Shelburne Planning Board, Conservation Commission, and Board of Health:

Reports from other boards and officials shall be submitted to the ZBA by the date of the public hearing, but in any case within thirty-five (35) days of receipt. In the event that the public hearing by the ZBA is opened prior to the expiration of the 35 day period, the ZBA shall continue the Public Hearing to permit the formal submission of reports and recommendations within that 35 day period.

Criteria for granting a special permit:

Section 6.6 of the Town of Shelburne Zoning Bylaw, details the criteria the Board must consider before granting a Special Permit:

6.6 Criteria: Special Permits shall be granted by the SPGA, unless otherwise specified herein, only upon its written determination that the benefits to the town and the neighborhood outweigh the adverse effect of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in the By-Law, the determination shall include consideration of each of the following:

6.6.1. Social, economic, or community needs which are served by the proposal:

- 6.6.2. Adequacy of vehicular and pedestrian traffic safety on and off the site, and adequacy of parking and loading;
- 6.6.3. Adequacy of utilities and other public services;
- 6.6.4. Potential fiscal impact, including impact on town services, tax base, and employment, and
- 6.6.5. Surface and ground water run-off.

The full text of the Shelburne Zoning Bylaw is available online at <http://www.townofshelburne.com/zoning>.

Criteria for Granting a Variance:

The ZBA must specifically find that owing to circumstances relating to the soil conditions, shape, or topography of such 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 the by-law would involve substantial hardship, financial or otherwise, to the applicant, and 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 the by-law. Variances may only be given for dimensional deviations not "use."

Conditions:

Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the ZBA may deem necessary to serve the purposes of the By-Law and in the best interests of the Town of Shelburne.

STEP VIII. AFTER THE HEARING

1. RECORDS AND FILING REQUIREMENTS by the ZBA

The ZBA shall make a record of its proceedings and record the vote of each member and set forth the reasons for its decision. Copies of this record shall be filed with the Town Clerk within 14 days of the decision and shall be deemed a public record.

2. APPEALS

Appeals of the ZBA's decisions, if any, must be filed with the Town Clerk and with the appropriate court of law within 20 days after the date of filing of the decision. (MGL Ch. 40A Sec. 17).

3. FINAL FILING REQUIREMENTS by the APPLICANT

The successful **Applicant** must file the original copy of the decision of the ZBA with the Franklin County Registry of Deeds within two years. No special permit, variance, or any extension, modification or renewal thereof, can take effect until a copy of the decision bearing the certification of the municipal clerk is recorded in the registry of deeds or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant. Prior to filing the original, the applicant should make sufficient copies of the decision for personal files, the Building Inspector, and any other interested parties.

