

TOWN OF NORFOLK
ZONING BOARD OF APPEALS



ORGANIZATION, RULES AND PROCEDURES

Updated April 2023

NORFOLK ZONING BOARD OF APPEALS
ORGANIZATION, RULES AND PROCEDURES

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**RULES AND REGULATIONS
REQUIRED BY SECTION 12 OF CHAPTER 40A,
OF THE GENERAL LAWS OF MASSACHUSETTS, AS AMENDED**

ARTICLE I: ORGANIZATION

The Board of Appeals is established and organized in accordance with Section G.6. of the Zoning Bylaws of the Town of Norfolk. The Board is governed by and shall act in accordance with Chapter 40A of the General Laws of Massachusetts, as amended, and the Zoning Bylaws of the Town of Norfolk, as amended. These rules and regulations govern the method of operation of the day-to-day activities of the board and are in accordance with the applicable law and bylaw. These rules may be changed by the concurrence of three Board members at a regular or special meeting. These rules and any changes are effective as of the date filed with the Town Clerk. Wherever these rules and regulations are not definitive and the Mass. General Laws do not place restrictions, the Board's operation shall be governed by Roberts Rules of Order.

SECTION 1: OFFICERS

The officers of the Zoning Board of Appeals shall consist of a chairperson, vice-chairperson and clerk. The election of these officers shall take place on the first meeting after June 1. The election shall be by simple majority of the Board members present. From time to time it may become necessary to fill a vacant position; this shall take place at the first convenient time following the termination, resignation, or otherwise removal of an officer. All officers shall be members of the Board. Associate members shall not hold an office; however, they shall be allowed to participate in the election of officers.

SECTION 2: CHAIRPERSON - POWERS AND DUTIES

The Chairperson may vote and be recorded on all matters coming before the board. Subject to these rules, he/she shall decide all points of order, unless overruled by a majority of the board in session at the time. He/she shall appoint such committees as may be found necessary or desirable. In addition to powers granted by general laws and local ordinances, and subject to these rules and further instructions of the board, the chairperson shall transact the official business of the board, supervise the work of the clerk, request necessary help, direct the work of all subordinates, and exercise general supervisory powers. He/she shall at each meeting, report on all official transactions that have not otherwise come to the attention of the Board.

SECTION 3: VICE-CHAIRMAN

The vice-chairman shall act as chairperson in case the chairperson is absent, disabled, or otherwise unable to perform his/her duties.

SECTION 4: CLERK

Subject to the direction of the board and its chairperson, he/she shall:

a. Prior to each meeting, the Clerk shall call each Full and Associate member of the Board to remind them of the meeting and to assure that at least 5 members will be present for the meeting and scheduled hearings.

b. Upon acceptance by the Board of applications for hearings for Special Permits and Variances, the Clerk shall prepare the forms for the legal advertising of the hearings and submit them to the Administrative Assistant.

c. the Clerk shall take notes during the hearing and deliberations. After deliberations by the Board, the Clerk shall be responsible for drafting the legal decision as directed by the Board, using the detailed record and the notes from the hearing and deliberations. After the draft decision has been reviewed and voted on by the Board, the Clerk shall be responsible for delivering the final draft to the Administrative Assistant in a timely manner in order that the decision may be printed, signed by members of the Board, and stamped by the Town Clerk prior to the legal deadline.

d. The Clerk shall draft other correspondence as directed by the Board to be submitted to the Administrative Assistant for printing and mailing. (revised 3/18/93)

SECTION 5: ALTERNATE MEMBERS

The Chairperson of the Board shall designate an alternate member to sit on the board in case of the absence, inability to act, or conflict of interest on the part of any Board member. In the event of a vacancy on the Board, the chairperson may designate an alternate member to act as a member of the Board until someone is appointed to fill the unexpired portion of the vacated term.

SECTION 6: QUORUM

Requires 4 members. The quorum may be made up of any combination of Full members and Associate members.

SECTION 7: REGULAR MEETINGS

Regular meetings of the Board of Appeals shall be held at 7:30 p.m. on the third Wednesday of each month at the Norfolk Town Hall. If a regular meeting day falls on a holiday or federal, state, or town election day, the meeting shall be held on the day following or at such time and place advertised and duly posted.

SECTION 8: SPECIAL MEETINGS

Special meetings may be called by the chairperson, or at the request of two members. Notice thereof shall be given to each member at least 48 hours before the time set. Notices shall be posted publicly as required by law on the bulletin board at the Town Hall.

ARTICLE II APPLICATIONS TO THE BOARD

SECTION 1: APPLICATION FORM

Every application for action by the board shall be made on the official form provided by the Board of Appeals, which can be amended from time to time as necessary. These forms shall be made available at the Zoning Board of Appeals office and the office of the Town Clerk. Any communication, purporting to be an application, shall be treated as mere notice of intention to seek relief, until such time as it is made on the official application form. All information required for the filing is noted in the checklist on page 2 of the form, and shall be furnished by the applicant in the manner and quantity therein prescribed. Failure to provide *all information required on the form* may be cause for the Board to reject the application as incomplete. (revised on May 13, 2004)

The Rules and Regulations of the Norfolk Zoning Board of Appeals are amended to include an affidavit entitled "GOOD STANDING APPROVAL". In accordance with the provisions of Chapter 640 of 1985, adopted by the Town of Norfolk at the Special Town Meeting held on November 25, 1986, and incorporated into the Town of Norfolk Bylaws, Article II, Section 4, a permit granting authority may deny any application to a person, corporation, or business enterprise who has neglected or refuses to pay any local taxes, fees, assessments or any other municipal charges. This form is to be included in the APPLICATION FOR HEARING packet and becomes effective as of May 21, 1997

SECTION 2: FILING THE APPLICATION

The applicant shall make nine (9) copies of the application along with two (2) copies of the site plan and submit all to the Administrative Assistant of the Board at the Town offices at One Liberty Lane during regular business hours. Upon acceptance of the application packets, the administrative Assistant shall date stamp all copies and return two (2) copies of the application to the applicant. The applicant shall forthwith bring these two copies to the Town Clerk who shall sign and date stamp the two copies. One of the copies with the Town Clerk's stamp and the Zoning Board of Appeals' stamp shall remain in the possession of the Town Clerk. The Town Clerk shall immediately forward the other copy to the office of the Zoning Board. (revised on May 9, 2003)

SECTION 3: FILING PERIOD

Every application shall be filed and every appeal taken within time limits specified in MGL, Chapter 40A as amended.

SECTION 4: PLAN OF LAND TO ACCOMPANY PETITION

Every application and petition to the Board shall be accompanied by two (2) copies of the following described plan:

The plan shall be drawn as required in the "Important Instructions and Information for Applicants" accompanying the application. (rev. 8/15/89)

SECTION 5: CERTIFIED LIST OF ABUTTERS

All applications shall be accompanied by a list of abutters provided to the petitioner by, and certified by, the office of the Board of Assessors. The list shall contain the names and the addresses of all abutters, abutters to abutters of the property line as long as such land of the abutters to abutters is within 300 feet of such property line. Owners of land are directly opposite on any public or private street or way, as they appear on the most recent applicable tax list. Any fee for this list shall be paid by the petitioner at the Assessors' office.

SECTION 6: APPLICATION FEES

All applications shall be accompanied by a check, payable to the Town of Norfolk, in the amount listed on the most recently revised fee schedule. In some instances, the Board may be requested to reduce or waive the application fee. When submitting a request for a fee reduction or waiver, the applicant shall cite the reasons for the request; whereupon, the Board shall make a determination.

SECTION 7: COMPREHENSIVE PERMIT RULES OF THE ZONING BOARD OF APPEALS FOR APPLICATION OF COMPREHENSIVE PERMITS, M.G.L. CHAPTER 40B

Subsections:

- a. Authorization
- b. Procedure
- c. Submittal Requirements
- d. Filing Fee
- e. Written Authorization
- f. Outside Consultants
- g. Testimony and Documents
- h. Vote and Decision
- i. Appeals
- j. Amendments

Section 7(a) **Authorization**

These rules are authorized by M.G.L. Chapter 40B, sec. 21; M.G.L. Chapter 44, sec. 53G and 760 CMR 31.02(3).

Section 7(b) **Procedure**

- (1) Two (2) copies of the complete application, including all supporting documentation and the filing fee, shall be submitted to the Norfolk Zoning Board of Appeals (the “Board”) by hand or certified mail delivery to its administrative assistant at the Town offices at One Liberty Lane, Norfolk, MA during regular business hours. Upon acceptance of the application by the administrative assistant, a dated stamped copy of the application shall be given to the Town Clerk.
- (2) The Board will transmit copies of the application to the Board of Selectmen, Planning Board, Board of Health, Conservation Commission, Police Department, Fire Department, Highway Department, Water Department, Building Commissioner, Housing Authority, Recreation Commission, School Committee (the “local
- (3) boards) and any other relevant board, commission, or official, and request written recommendations and an appearance at the hearing on said application. The Board will consider the recommendations of the local boards and officials.

- (4) The Board shall commence a hearing within thirty (30) days of submission of the complete application.
The hearing should be terminated when all testimony has been received and all information requested by the Board has been received and reviewed.
- (5) The Board shall request the appearance during the hearing process of such representatives of said local boards and officials and, in making its decision on said application shall take into consideration the recommendation of the local boards and officials.
- (6) The Board shall issue a decision within forty (40) days after the termination of the hearing process and file the decision in the Town Clerk's office within that same time period.
- (7) The Board and the applicant may, by mutual written agreement, extend the thirty-day time period in which to hold the hearing and, after close of the hearing process extend the time period in which to render a decision also by mutual written agreement. Such written agreement(s) shall be filed in the office of the Town Clerk.

Section 7(c) **Submittal Requirements**

The applicant shall be required to submit the following information as part of the application:

- (1) A detailed list of all requested exemptions to local requirements and regulations, including local bylaws and regulations;
- (2) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; proposed landscaping improvements and open areas within the site as well as any wetland resources pursuant to M.G.L. chapter 131, 40A, as amended, the Inland Restricted Wetland Act, and those resources protected pursuant to the Town of Norfolk Wetland Protection Bylaw and Regulations. All structures of five or more units must have either a preliminary or definitive site development plan signed and stamped by a registered architect. Structures of less than five units may submit a sketch of the matters referenced herein and in Subparagraph (3) below, which need not have an architect's signature and stamp, subject, however, to the Board's right to require architectural plans, at any time prior to or during the hearing, if deemed necessary by the Board;
- (3) A report, together with a plan(s), regarding existing site conditions and a summary of conditions in the surrounding areas, showing the

location and nature of existing buildings, existing street elevations, traffic patterns, on-site circulation (if an approved site), sight distances and character of open areas, if any, in the neighborhood, as well as the proposed development's anticipated impacts on municipal facilities, such as water, public safety, schools, sewage treatment and environmental impacts to wetlands, wetland buffers and wildlife habitat. The zoning district or districts, if more than one (1) district is involved, shall also be shown on the plan. If the abutting land is in another district or town, this also shall be shown;

- (4) Preliminary architectural scaled drawings for building plans including typical floors plans, typical elevations and sections, and identifying construction type and exterior finish, signed and stamped by the architect;
- (5) A tabulation of proposed buildings by type, size, density, number of bedrooms, floor area, and ground coverage, proposed affordable/market rate ratios, project density, proposed landscaping/buffers and summary showing the percentage of the parcel to be occupied by buildings, by parking and other paved vehicular areas, and by open space areas;
- (6) Where the subdivision of land is involved, a preliminary or a definitive subdivision plan. If a preliminary plan is submitted, the Board shall have the right to require the applicant to submit any and all information typically required on a definitive plan as required by the Planning Board, if deemed necessary by the Board;
- (7) A utilities plan showing the proposed location and types of sewage, water and drainage facilities including hydrants;
- (8) To the extent practicable, large projects shall contain a written narrative of the overall anticipated/expected environmental impact in terms of traffic, fire, schools, recreation, and the effect on open space.
- (9) Evidence documenting that the applicant complies with 760 CMR 31.01, namely:
 - a. The applicant shall be a public agency, a non-profit organization, or a limited dividend organization;
 - b. The project must be fundable under a state or federal low or moderate income housing program (project eligibility letter);
 - c. Appropriate documentation evidencing the applicant's control of the site.

- (10) A certified plan of the site prepared by a registered land surveyor or a registered professional engineer;
- (11) A copy of the deed to the subject property showing the Registry of Deeds Book and Page number(s). If the property is under a Purchase and Sales Agreement, a copy of said agreement shall also be provided (see Section 6(e) regarding written authorization if the applicant is not the owner of the property).
- (12) An abutters list certified by the Town's Assessor's office listing all abutters as defined in M.G.L. chapter 40A, section 11.
- (13) A development budget showing all of the expected costs and anticipated profits associated with the development using the appropriate MFHA methodology.

Section 7(d) **Filing Fee**

All applications for a Comprehensive Permit, or a Significant Change to a Comprehensive Permit, shall be accompanied by a check, payable to Town of Norfolk, in the amount listed on the most recently revised fee schedule. The filing fees do not include any outside review fees.

Section 7(e) **Written Authorization**

- (1) If the applicant is not the owner of the property, the owner(s) shall provide written authorization for the subject application that shall be included as part of the application.
- (2) If the individual signing the application is unable to attend any hearing on the application, the Board shall require written authorization from the applicant that the designated representative has consent to represent the applicant or to withdraw the application. This authorization shall be provided in advance of any such representation or withdrawal.

Section 7(f) **Outside Consultants**

The Board may hire outside consultants for technical review and analysis of any application when the Board determines that such review would be of assistance to the Board in evaluating the application. The cost for the outside consultants shall be borne by the applicant. Where applicable, the Board shall follow the requirements of the Uniform Procurement Act, M.G.L. chapter 30B, Section 4, as most recently amended.

Pursuant to M.G.L. chapter 44, section 53G and M.G.L. chapter 40B, Section 21, the Board, through these rules, provides for an applicant's payment of fees for outside consultants as set below:

- (1) When conducting any hearing pursuant to M.G.L. chapter 40B, sec.21 (the subject of which is hereinafter referred to as “the Proposal”), the Board may determine that the assistance of outside consultants is warranted due to:
 - (a) the size, scale, or complexity of the Proposal;
 - (b) the complexity of particular technical issues;
 - (c) the number of housing units proposed;
 - (d) the size and character of the site;
 - (e) projected construction costs.
- (2) In hiring outside consultants, the Board may engage engineers, planners, traffic consultants, housing specialists, financial analysts, attorneys than for and/or other appropriate outside consultants who can assist the Board in reviewing and analyzing the Proposal. The use of an attorney shall not include attorney fees related to the Board’s defense of any decision by the Board not shall it include costs associated with Town Counsel. The minimum qualifications shall consists of either an educational degree in, or related to, the field at issue or three or more years of practice in the field of issue or related field.
- (3) Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special account for this purpose in accordance with the provisions of chapter 44, section 53G of the General Laws. Expenditures from this special account may be made at the directions of the Board in connection with the hearing of a specific Proposal for which a review fee has been collected from the applicant without further appropriation.
- (4) Any invitation for bids or request for proposals for outside consultants shall indicate that award of the contract is contingent upon payment of a review fee. If the applicant fails to pay the review fee within ten (10) days of receiving written notification of the Board’s selection of a bidder or offer, the Board may deny the comprehensive permit, unless the applicant appeals the selection as provided below.
- (5) Within ten days of the Board’s selection of the outside consultant, the applicant may appeal the selection of the consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The written appeal shall specify the nature of the conflict of

interest and detail the lack of required qualifications. A copy of the appeal shall be simultaneously provided to the Board.

- (6) The required time limits for action upon the application by the Board shall be extended by the duration of any such appeal. In the event that no decision is made by the Board of Selectmen within thirty (30) days following the filing of the appeal, the selection made by the Board shall stand.
- (7) Review fees may only be spent for services in connection with the specific Proposal from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of the Proposal, any excess amount in this account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- (8) The Town Treasurer shall provide the applicant a final report of funds in the special account upon request.

Section 7(g) **Testimony and Documents**

- (1) The Board may receive any testimony during this hearing process and inspect any data, or any sites as it deems necessary to enable it to render a fair and informed decision;
- (2) The Board may receive testimony of any person to whom it is required to give notice to.
- (3) All questions to be put to witnesses shall be through the chairman of the Board.
- (4) Any documents introduced shall be clearly identified by name, or some other designation and the persons so introducing them shall also be identified.
- (5) The members of the Board have the right to inquire of any witness appearing before it.
- (6) Any individual or his representative, to whom the Board is required to send notice, may inquire of through the chair any witness appearing before the Board. The Board may exclude questions that are irrelevant, repetitious, or harassing.
- (7) The Board may permit such others or their representatives to conduct such inquiry as is deemed appropriate by the Board.

Section 7 (h) **Vote and Decision**

- (1) The Board shall render a decision, based on a majority vote of the Board within forty (40) days after the termination of the hearing process. The decision of the Board shall forthwith be filed with the Town Clerk's office.
- (2) The Board may dispose of the application in the following manner
 - a. approve a comprehensive permit on the terms and conditions set forth in the application;
 - b. approve a comprehensive permit with conditions additional to those set forth in the application which do not render the construction or operation of such housing uneconomic;
 - c. deny a comprehensive permit for failure of the applicant to provide sufficient information as requested by the Board.
- (3) If a decision is not rendered within the time allowed, unless extended by mutual written agreement, the application shall be deemed approved on the terms and conditions set forth in the application.
- (4) The decision of the Board shall be sent to all abutters as so noted on the certified assessors' list, other parties in interest and local boards as well as the Planning Board of abutting towns.
- (5) If a comprehensive permit is granted, the applicant, prior to construction, must present final detailed construction plans to the building inspector to ensure that the plans are consistent with the comprehensive permit and with state requirements.

Section 7(i) **Appeals**

- (1) If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L. c.40A, sec.17.
- (2) If the Board denies the comprehensive permit, or approves the permit with conditions or requirements found to be unacceptable to the applicant, the applicant may appeal to the Housing Appeals Committee (HAC) as provided in M.G.L. c 40B, sec. 22.

Section 7 (j) **Amendments**

- (1) These rules including the fee schedule may be amended by an affirmative vote of not less than three (3) of the five (5) voting members of the Board, provided that such vote occur at a duly posted meeting of the Board of Appeals. (revised on May 9, 2003)

ARTICLE III

SECTION 1: NOTICE

Notice of hearings shall be advertised as required by the provisions of General Laws, Chapter 40A. In addition, a copy of the advertised notice shall be sent by mail at least 14 days prior to the date of the hearing, postage prepaid, to the applicant or petitioner, to all parties on the list provided in accordance with **ARTICLE II, SECTION 4**, to the Planning Board of every abutting Town, to the Building Commissioner/Zoning Officer, and to all those required by the law.

SECTION 2: HEARINGS TO BE PUBLIC

All hearings shall be open to the public and in accordance with Mass. G.L. Chapter 39, Section 23a, b, and c, as amended. ("Open Meeting Law")

SECTION 3: REPRESENTATION AND ABSENCE

An applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the board may decide on the matter using the information it has otherwise received.

SECTION 4: ORDER OF BUSINESS

- (a). Introduction of the Board members
- (b). Reading of newspaper advertisements, petition, and legal notices by the Clerk, together with presentation of exhibits, if any
- (c). Applicant's presentation
- (d). Opponent's presentation, if any, and questions by those seeing information
- (e). Applicant's rebuttal, restricted to matters raised by opponent's presentation.

Members of the Board who are hearing the case may direct appropriate questions during the hearing.

**ARTICLE IV
DISPOSITION BY THE BOARD****SECTION 1: VOTING REQUIREMENT**

The concurring vote of at least four (4) members of the Board shall be necessary to grant a variance, special permit, or "exemption" in accordance with the Flood Plain/Wetlands Protection District, or to override an official or ruling being appealed. Any amendments or conditions proposed to an original motion to grant a variance, special permit, exemption, or appeal shall be declared passed, based on the amendments receiving more "yeas" than "nays". The record shall show the vote of each member upon each question or, if failing to vote, indicate reasons for its decision. A detailed record of proceedings, including the vote on each question shall be filed with the Town Clerk within fourteen days of a decision becoming final. A decision shall be considered final when 3 members sign the written decision, thus certifying it.

SECTION 2: WITHDRAWAL

An application may be withdrawn by notice in writing to the clerk at any time prior to the hearing by the Board. After an advertisement, withdrawal is permitted only by Board approval only.

SECTION 3: APPLICATION

All applications shall be reviewed by the Board. If the Board decides by the concurring vote of 3 members that an application is incomplete, in error, or requests a variance or special permit for a "use" which the Board has no authority to grant under the Norfolk Zoning Bylaws, it shall be deemed invalid and the fee returned. If desired, the applicant may resubmit a completed/corrected application, which shall be treated as a new application.

SECTION 4: RECONSIDERATION

Once a petition has been voted upon and the meeting adjourned, reconsideration of that decision can only occur by a majority vote of those who originally voted on the decision and only prior to date stamping by the Town Clerk, except as directed by the Court under Mass. G.L., Chapter 40A.

SECTION 5: REAPPLICATION

No appeal, application or petition which has been unfavorably and finally acted upon by the Zoning Board of Appeals shall be acted favorably upon within two years after the date of final unfavorable action except by the provision of the MGL, Chapter 40A, Section 16, as amended.

SECTION 6: ONE YEAR LIMITATION ON GRANTS: EXTENSIONS

If an application is granted by the Board, all permits necessary for the prosecution of the work shall be obtained and construction shall be commenced within one year from the date of filing of the board's decision in the office of the City or Town Clerk. Reasonable extension of said time may be granted by application to the board for any good cause or in the case of an appeal in accordance with MGL, Chapter 40A, Section 17.

SECTION 7: POLICIES AND ADVICE

Advice, opinions, or information given by any Board Member of any of any other official or employee of the Town shall not be binding on the Board. In order to preserve the integrity of the public hearing process, it is the policy of the Board to accept information relative to any case at the appropriate public hearing, and to discourage individuals from appealing personally to Members of the Board at any time. (4/5/90)

**ARTICLE V
SCHEDULE OF FEES
(Effective January 15, 2020)**

SECTION 1: APPLICATION FEES

The Norfolk Zoning Board of Appeals fees shall consist of 1) Application Fee(s) and 2) Advertising Fee(s). In certain cases, Review Fee(s) as outlined in Sections 2 & 3 below may be required.

- a) Special Permit
 Application Fee..... \$300.00
 Each additional Special Permit pertaining to the same site..... \$50.00
 Advertising Fee.....At the expense of the Applicant

- b) Variance
 Application Fee..... \$300.00
 Each additional Variance request pertaining to the same site..... \$50.00
 Advertising Fee.....At the expense of the Applicant

- c) Special Permit (SP) and Variance
 Application Fee..... \$300.00
 Each additional SP or variance request pertaining to the same site..... \$50.00
 Advertising Fee.....At the expense of the Applicant

- d) Comprehensive Permit
 Application Fee..... \$1,080.00
 Plus per unit cost \$220.00
 Advertising Fee.....At the expense of the Applicant

- e) Significant Change to Comprehensive Permit
 Application Fee..... \$300.00
 Advertising Fee.....At the expense of the Applicant

- f) Appeals
 Application Fee..... \$300.00
 Advertising Fee.....At the expense of the Applicant

- g) Wetland Act and/or Watershed Hearing
 Application Fee..... \$300.00
 Advertising Fee.....At the expense of the Applicant

- h) Addendum and changes/relief from conditions
 Application Fee..... \$300.00
 Advertising Fee.....At the expense of the Applicant

- i) Extension request for Special Permit/Variance
 Application Fee..... \$300.00
 Advertising Fee.....At the expense of the Applicant

- j) Repetitive Petitions (Requires application to Planning Board to re-apply to ZBA)
 Application Fee..... \$300.00
 Advertising Fee.....At the expense of the Applicant

- k) Renewals of Special Permits
 Application Fee..... \$300.00
 Advertising Fee.....At the expense of the Applicant

PLEASE NOTE: In addition to the application and advertising fees, the applicant will be required to reimburse the Town for any and all costs incurred by the Town to have an engineer/consultant review the proposal as deemed necessary by the Zoning Board of Appeals. (Please note Article V, Section 2, Rules and Regulations)

SECTION 2: APPLICATION REVIEW FEES - SPECIAL MUNICIPAL ACCOUNT

a. When reviewing an application for Special Permit/Variance or Comprehensive Permit, the Board may determine that the assistance of outside consultants is warranted due to the size, scale, or complexity of a proposed project, or because of a project's potential impacts. The Board may require that applicants pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

b. In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws, and regulations.

c. Funds received by the Board pursuant to this section shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application.

d. Review fees may only be spent for services rendered in connection with the specific project from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a special project, shall be repaid to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

e. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

PLEASE NOTE: The above regulation is designed to implement the provisions of Chapter 593 of the Acts of 1989, Chapter 44, as amended. (3/7/90)

SECTION 3, SPECIAL MUNICIPAL ACCOUNT - REVIEW FEE SCHEDULE

a. The Special Municipal Account Review Fees are to be made in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant (Article V, Section 2). The Review Fees may be requested of the applicant in the determination of the Board that outside consultants are required and are in addition to the general fees set forth for an Application for Hearing before the Board (Article V, Section 1). The failure of an applicant to pay a review fee, when requested, shall be grounds for denial of the application (Article V, Section 2.c.).

b. The Review Fee Schedule as outlined in Section 3.d. of Article V, shall be considered the initial deposit for the purposes of establishing the Special Revolving Account for the project. Any additional costs associated with the review of the project shall be borne by the applicant. The Review Fee Schedule shall be amended as necessary with the concurrence of the Board Members and shall become effective on the stamped date of the Town Clerk.

c. All Review Fees shall be payable to the "Zoning Board of Appeals Review Account" and shall be deposited with the Town Treasurer into a special revolving account for the project. (effective 3/18/93)

SECTION 3, SPECIAL MUNICIPAL ACCOUNT - REVIEW FEE SCHEDULE
(cont'd)

d. REVIEW FEE SCHEDULE:

Comprehensive Permits	\$2000.00
Special Permits	\$ 500.00
Variances	\$ 500.00
Wetland/Floodplain Act and/or Watershed Hearing	\$1000.00
Aquifer Protection Hearing	\$1000.00

APPENDICES

APPLICATIONS AND FORMS

TOWN OF NORFOLK ZONING BOARD OF APPEALS



APPLICATION FOR HEARING BEFORE THE ZONING BOARD OF APPEALS

APPEALS – G.L. c. 40A, s. 8
SPECIAL PERMITS – G.L. c.40A, s.9 310-7.6.
VARIANCES – G.L. c. 40A, s.10
REPETITIVE PETITIONS – G.L. c.40A, s. 16 310-7.7
COMPREHENSIVE PERMITS – (separate application packet)

M.G.L. chapter 40A, s.14 and the Norfolk Zoning Bylaws provide that the Zoning Board of Appeals shall have the authority to hear and decide petitions for Appeals, Special Permits, Variances, Appeals, Repetitive Petitions, and Comprehensive Permits ((40B).

Please refer to the attached instructions when completing this application. The criteria for the granting of Special Permits and Variances is listed on Appendix A, B and C in this packet.

Applicants are advised to check with the Building Commissioner/Zoning Officer for interpretations of the Zoning Bylaws relative to your case prior to filing with the Board of Appeals.



**Town of Norfolk
Zoning Board of Appeals
APPLICATION FOR HEARING**

SECTION A

- 1. Applicant/Appellant: _____
- 2. Mailing Address: _____
- 3. Phone: _____ Street _____ Town _____ Zip _____
 Home/business/cell FAX: _____ E-MAIL: _____
- 4. Location/Address of Property – Subject of Hearing:
 _____ Zone: _____ Map: _____ Block: _____ Lot: _____
- 5. Owner of property: _____
- 6. Address of Owner: _____
- 7. Phone: _____ FAX: _____ E-MAIL: _____
- 8. Applicant is: ___ (owner) ___ (tenant) ___ (Licensee)

SECTION B (Check all that apply- see Instructions for further explanation)

- ___ a. **APPEAL (appeal of Building Inspector/Zoning Officer’s Decision)** (c.40A, s. 8)
- ___ b. **SPECIAL PERMIT** (C.40A, s.9 & Norfolk Zoning Bylaw, 310-7.6)
 ___ **MODIFICATION/EXTENSION/RENEWAL of SPECIAL PERMIT**
- ___ c. **VARIANCE** (C.40A, s.10)
- ___ d. **REPETITIVE PETITION** (G.L. C. 40A, S 16, Norfolk Zoning Bylaw 310-7.7. ZBA Organization, Rules and Procedures)

SECTION C (State exact nature of the request and cite applicable zoning bylaw(s). You may attach additional paper as necessary.)

Section(s) _____

Description: _____

SECTION D: CHECKLIST

- _____ 1. **Two (2) copies of the site plan of land** (see instructions for submittal) along with 2 copies of completed and signed Application and all enclosures. (s.2 ZBA Organization, Rules and Procedures)
- _____ 2. **Two (2) copies of the letter of denial from the Building Inspector** (if Applicable)
- _____ 3. **Two (2) copies of a list of abutters, prepared and certified by the Board of Assessors for the current tax year of the application** (s. 5 ZBA Organization, Rules and Procedures & MGL c.40A, s.11)
- _____ 4. **Two (2) copies of Articles of Incorporation** (if applicant is incorporated)
- _____ 5. **Check or money order, payable to “Town of Norfolk”** (see fee schedule)
- _____ 6. **Written verification that application has been made to the Norfolk Planning Board for Site Plan Approval and Design Review Board, if required.** (*Note: All Non-residential projects must be reviewed by the Norfolk Planning Board.*)
- _____ 7. **Good Standing Form** (Norfolk Town Bylaws, Article II, s. 4)
- _____ 8. **Completed relevant Appendices for specific application (“A”, “B”, or “C”)**

SECTION E GOOD STANDING (Pursuant to Norfolk General Bylaws- Art. II, s.4)

The above Applicant is applying for a permit and has no outstanding debt on record from the following offices.

Treasurer/Collector’s Approval _____
Name Date

Water Department Approval _____
Name Date

Town Clerk Approval _____
Name Date

I hereby request a public hearing before the Norfolk Board of Appeals with reference to the above noted application:

Signed: _____ Date: _____
(Applicant)

Signed: _____ Date: _____
(Property Owner if different from Applicant)

Note: The Town Clerk shall sign and stamp the date received. MGL c. 40A, §§ 9 & 15 specifies that the Town Clerk’s stamp starts the process for ALL Zoning Board of Appeals applications.

Town Clerk Date

INSTRUCTIONS FOR FILING

Please read the instructions carefully prior to completing the APPLICATION FOR HEARING form.

All applications to this Board will be acted upon, but because of legal requirements, all information must be complete and correct to the best of the applicant's knowledge. Incomplete applications may cause delays.

No member of the Zoning Board of Appeals may volunteer information, advise, or answer any questions about your application or project as this may be deemed prejudicial. (s.7, ZBA Organization, Rules and Procedures).

SECTION A – Please complete this basic information regarding this application

SECTION B – Check all items that are the subject of this Application. All actions before the Board have state and local statutory time provisions and limits.

a. Appeals- an application for an Appeal of the Building Inspector's decision must be filed on the official application form and stamped by the Town Clerk within 30 days of the date of the written decision of the Building Inspector. (GL, c40A, s.8). The Board shall schedule a public hearing within 65 days of the filing and shall render a decision within 100 days of the filing date unless otherwise extended by written agreement of the Board and applicant. (GL, c.40A, s.15).

b. Special Permit – An application for a Special Permit must be filed on the official application form and stamped by the Town Clerk (GL, c.40A, s. 9) and the correct number of forms and plans submitted to the Board. The Board shall preview all applications to ensure completeness for advertising and schedule a public hearing within 65 days of the Town Clerk's stamp. The Board shall render a decision within 90 days after the close of the public hearing.

c. Variance – An application for a Variance must be filed on the official application form and stamped by the Town Clerk (GL, c. 40A, s.10) and the correct number of forms and plans submitted to the Board. The Board shall preview all applications to ensure completeness for advertising and schedule a public hearing within 65 days of the Town Clerk's stamp. The Board shall render a decision within 100 days of the Town Clerk's stamp.

d. Addendum, Modification, changes to conditions of approval or plans. An application for an Addendum/modification must be filed on the official application form and stamped by the Town Clerk (GL, c40A, s.11) and the correct number of forms and plans submitted to the Board. The Board shall preview the application to ensure completeness for advertising and schedule a public hearing within 65 days of the Town Clerk's stamp. The Board shall render a decision within 90 days after the close of the public hearing.

e. Extension – An application for an Extension of a previously granted special permit or variance shall be filed on the official application form and stamped by the Town Clerk (GL, c.40A, s. 11) and the correct number of forms and plans submitted to the Board. The Board shall preview the application to ensure completeness for advertising and schedule a public hearing within 65 days of the Town Clerk's stamp. The same procedures required for an original application

must be followed for an Extension. Once the special permit or variance lapses, the filing is treated as a new application and the request is subject to the zoning in effect at the time the new special permit or variance is issued.

f. Renewal – An application for a Renewal of a previously granted special permit or variance shall be filed on the official application form and stamped by the Town Clerk (GL, c40A, s. 11) and the correct number of forms and plans submitted to the Board. The Board shall preview the application to ensure completeness for advertising and schedule a public hearing within 65 days of the Town Clerk’s stamp. The same procedures required for an original application must be followed for a Renewal.

g. Repetitive Petition – If a special permit or variance has been denied, the applicant must wait 2 years from the date of the final unfavorable action to re-apply unless filing (repetitive petition) is first made to the Planning Board for a reconsideration of specific and material changes that relate to the reasons of the unfavorable action by the Zoning Board (GL, c.40A, s.16). The Planning Board must consent to the reconsideration by finding specific and material changes by a 4-1 vote. If granted by the Planning Board, the application for Repetitive Petition must be submitted to the Zoning Board following public hearing requirements. The Board must also find specific and material changes before reconsidering the issue again.

SECTION C – Obtain a copy of the Norfolk Zoning Bylaws. Write all sections of the Bylaws that apply to your request. Write a short description of the request. Additional paper may be used for a description about your petitions.

SECTION D – Provide the items in this checklist with your application packet:

1. Provide the Zoning Board of Appeals with **2** sets of application and supplemental information and **2** copies of plans.
2. Provide **2** copies of a letter of denial from the Building Inspector, if the subject of your application is an Appeal
3. Provide **2** copies of a list of abutters obtained from the Board of Assessors for the current tax year. The list shall contain the names and addresses of all abutters and owners of land directly opposite and adjacent on any public or private way or street and abutters within 300 feet of the property line of the subject property as they appear on the most recent tax list; notwithstanding that the land of any such owner is located in another city or town.
4. Provide **2** copies of Articles of Incorporation, if applicable
5. Attach a check or money order as per Schedule of Fees included with this application. The Board may determine that assistance of outside consultants is warranted due to the size, scale, or complexity of the project. An additional review fee may be required per s. 2 of ZBA Organization, Rules and Procedures. Failure of an applicant to pay a review fee, when requested, shall be grounds for denial of the application (Art. V, s. 2c Town Bylaws).
6. Provide written evidence that an application has been filed with the Planning Board for all non-residential projects requiring Site Plan Review.
7. Provide a signed Good Standing Form indicating that there are no outstanding debts or fees

owed to the Town. A Permit Granting Authority may deny any application submitted by a person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments or any other municipal charges (ZBA Organization, Rules and Procedures, Town Bylaws, Art. II, s. 4)

8. Complete the applicable criteria worksheet (A, B, or C) attached with the application.

Site Plan Requirements:

1. The Plan shall be prepared by a MA Registered P.E or Surveyor who shall include a wet stamp affixed to the plan including an original handwritten signature and discipline adjacent to and below the licensee's seal.
2. The Plan shall not be less than a 40-scale plan.
3. Property lines and site dimensions shall be shown.
4. Names of adjacent streets shall be shown.
5. The North arrow shall be shown.
6. The location of all buildings on the property and their distance to property lines and buildings on abutting properties.
7. Names of owners of all abutting properties.
8. Required parking (if any), entrance, exits, driveways, etc. pertinent to the granting of a variance or special permit must be shown.
9. All proposed changes must be shown in red.
10. Show two-foot contour intervals on the plan.

Non-conforming Structures:

When applying for a NON-CONFORMING addition or NON-CONFORMING STRUCTURE (310-6.4. of the Norfolk Zoning Bylaw), the applicant must submit a plan showing the original structure and documentation of any special permits and/or building permits issued since zoning on the age of any additions, or proof of additions prior to the adoption of the zoning bylaws in March of 1953.

A copy of the Norfolk Zoning Bylaws may be purchased from the Town Clerk. The Zoning Bylaws are also online at www.norfolk.ma.us.org

One non-circulating copy of the Zoning Bylaws and Organizational Rules and Procedures of this Board are on file with the Town Clerk and the Zoning Board of Appeals.

Appendix A
Variance Criteria and Worksheet
(per G.L. 40A, §10)

Variances cannot be granted unless all 4 statutory requirements are found

1. The Variance must be with respect to particular land or structures.
The Norfolk Zoning Bylaws do NOT allow variances for uses or activities not otherwise permitted in the district in which the land or structure is located.

Parcel of Land: _____

Structure(s): _____

2. There must be 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.

Circumstances: _____

3. Literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

Circumstances: _____

4. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such bylaw.

Relief would be: _____

Detriment would be: _____

Is it substantial: _____

APPENDIX B

Special Permit Criteria and Worksheet (per Norfolk Zoning Bylaw, Section 310-7.6, D. 1-7)

1. The use must be in harmony with the general purpose and intent of the Bylaw.

2. The use is in an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district.

3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

4. The proposed use would not be detrimental or offensive to the adjoining zoning districts and neighboring properties due to the effects of lighting, odors, smoke, noise, sewage, refuse materials, visual or other nuisances.

5. The proposed use would not cause undue traffic congestion in the immediate area.

6. A proper site plan has been filed for approval with the Planning Board and the proper number of copies submitted with the application for a Special Permit to the Board of Appeals.

7. The use and or purpose is consistent with the 1992 Master Plan, and as most recently updated.

APPENDIX C

Watershed Protection Bylaw Criteria Worksheet (Per Norfolk Zoning Bylaw, 310-4.3)

1. The use must be in harmony with the purpose and intent of this Bylaw and will promote the purpose of the Watershed Protection District as outlined in Section D.3.a. of the Norfolk Zoning Bylaws.

2. The use must be appropriate to the natural topography, soils, and other characteristics of the site to be developed.

3. The use will not, during construction or thereafter, after an adverse environmental impact on any water body or course in the district.

4. The use will not adversely affect an existing or potential water supply.

PLEASE NOTE: All construction and land disturbing activities within the Watershed Protection District shall be designed or site to minimize erosion and runoff by minimizing the construction period, slope stabilization, ditch maintenance, filtering, sedimentation basins, and revegetation. (Norfolk Zoning Bylaw, **Section 310-4.3**)



**TOWN OF NORFOLK
ZONING BOARD OF APPEALS**

ONE LIBERTY LANE
NORFOLK, MASSACHUSETTS 02056
(508) 541-8455
www.norfolk.ma.us

APPLICATION FOR HEARING
COMPREHENSIVE PERMIT

1. Name of Applicant or Appellant: _____

1a. Mailing address of Applicant: _____

_____ Zip Code _____ Phone _____

1b. Address or location of property – Subject of the Hearing:

1c. Owner of the property: _____

1d. Mailing address of the owner: _____

2. Name of all persons or parties having legal or beneficial interest in the application:

3. List the supplied documents sufficient to prove status as Non-profit, limited dividend, or public agency: _____

4. List the documents sufficient to prove interest in locus; in case of public agency with eminent domain authority, a statement of interest in acquiring site shall be sufficient to demonstrate interest in property. Documents shall give the precise location of property:

5. List submitted FHA or MHFA site approvals or other documents showing agency's interest:

6. List requested exceptions to local codes, ordinances or regulations:

7. State of local need for such a development; include any documents to substantiate:

8. Complete a description of the development. The description shall include the following information. This Description may be an appendix to the application form but must include all of the following information:

- _____ a. Number of units to be built, and acreage.
- _____ b. The type of building to be constructed, masonry, wood frame etc.
- _____ c. Names of record owner if different from the applicant, and the name of the designer, engineer, architect or surveyor.
- _____ d. Names of all abutters, and of owners of land next adjoining abutters, as determined from the most recent local tax list.
- _____ e. General description of proposal system of drainage and sewerage, including adjacent existing natural waterways.

- _____f. Approval, if necessary, under the Jones Act, Coastal Wetlands Act, the Hatch Act, and the Inland Wetlands Act, respectively. Chapter 130 Section 27A, Chapter 130 Section 105, Chapter 131, Section 40, and Chapter 131 Section 40A of the General Laws.
- _____g. Names, approximate location, and widths of adjacent streets.
- _____h. Description of the topography of the site.
- _____i. Floor plan of typical unit, and typical elevations and typical section.
- _____j. Overall site plan of development.
- _____k. To degree reasonably possible, large projects shall contain a statement of the environmental impact in terms of traffic, fire, schools, recreation, and the effect on open space and the natural environment.

I hereby request a hearing before the Norfolk Zoning Board of Appeals with reference to the above noted application.

Signed: _____ Date: _____

Signed: _____ Date: _____

Title: _____

Notice: Town Clerk or Agent shall stamp the date received on this application, sign or initial adjacent to the date, and forward the material to the Clerk/Agent of the Board of Appeals.

Town Clerk or Agent

Date



**TOWN OF NORFOLK
ZONING BOARD OF APPEALS**

ONE LIBERTY LANE
NORFOLK, MASSACHUSETTS 02056
(508) 541-8455
www.norfolk.ma.us

(Date)

Dear Applicant,

Your public hearing has been continued to _____ at _____.
(Date) (Time)

Request for continuance of hearing date:

Please be advised that your failure to notify the Zoning Board of Appeals no later than 24 hours prior to this date may cause your hearing to close with prejudice, with costs and without further evidence being presented. In addition, all requests for a continuance shall be in writing to the Zoning Board of Appeals and in receipt of the Board within the 24-hour time period. A facsimile may be accepted, but the applicant is strongly urged to contact the Board to confirm receipt of said request.

Acknowledged by the applicant on: _____
(Date)

Applicant or authorized representative

Zoning Board of Appeals

Attn: Administrative Assistant

Town hall, Room 105C

One Liberty Lane

Norfolk, MA 02056

Tel: 508-541-8455

Fax: 508-541-3377

Email: (per website at <http://norfolk.ma.us/boards-committees/zoning-board-of-appeals/>)

Office Hours: 9:00 A.M. – 6:00 P.M. Monday – Thursday (closed Fridays)