

**Rules and Regulations
of the
Zoning Board of Appeals
for the
Town of Bedford**

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PREFACE - GUIDANCE FOR PETITIONERS

These Rules and Regulations have been written to provide all of the information necessary to successfully petition the Zoning Board of Appeals of the Town of Bedford (also referred to as "the Board"). Further guidance in the preparation, filing and processing of a petition which is to be heard by the Board should be solicited, if required, from the Town Clerk, the Secretary of the Board or the Building Inspector. Copies of the Zoning and/or Sign Bylaws are available from the Town Clerk and should be read by any potential petitioner. If additional guidance is still required, an attorney, professional engineer, architect, registered land surveyor or other appropriate person should be consulted.

The Zoning Board of Appeals is a semi-judicial board which acts on behalf of the Town of Bedford. Members of the Board are, therefore, not permitted to discuss privately the details of a matter coming before it. Questions regarding procedural matters or scheduling may be directed to the Secretary of the Board. Questions regarding interpretation of Town Bylaws or the applicable Massachusetts General Laws should be referred to an Attorney.

In order to become effective, variance or special permits approved by the Board must be filed with the Middlesex Registry of Deeds. This action should be taken by the petitioner after the twenty day period has passed in which an appeal may have been filed.

**RULES AND REGULATIONS OF THE ZONING BOARD OF APPEALS (ZBA)
OF THE TOWN OF BEDFORD**

**ARTICLE I _ ORGANIZATION AND OPERATION OF THE TOWN OF
BEDFORD ZONING BOARD OF APPEALS**

The Zoning Board of Appeals is appointed by the Selectmen of the Town of Bedford to hear petitions for appeal to either affirm or reverse the actions of the Building Inspector (or others); for variances or special permits which are required under the Town of Bedford Zoning Bylaw; and for special permits required under the Town of Bedford Sign Bylaw. The Board functions in accordance with Chapter 40A of the Massachusetts General Laws.

The Board hears petitions submitted to it in accordance with these Rules and Regulations; publishes, posts and notifies the public at large and the abutters; deliberates; and renders decisions regarding the petition in accordance with the Bylaws and the Massachusetts

General Laws. All activities of the Board are conducted in open meeting, in accordance with Chapter 39 of the Massachusetts General Laws.

1. Composition of the Board

The Zoning Board of Appeals is appointed by the Selectmen of the Town of Bedford and consists of five regular and three alternate members.

2. Election of Officers

At the first regular meeting following the annual appointment of new members by the Selectmen, the Board shall elect its own officers for the ensuing twelve month period. They are Chairman, Vice-Chairman and Clerk. Alternate members vote in this regard.

(a) In the event that the regularly elected Chairman and Vice-Chairman are not longer capable of carrying out their duties as the result of resignation, removal, or permanent disability in performance of their duties, the Clerk shall act as temporary Chairman pro-tem. A newly appointed Board of the proper number of regular members shall elect permanent officers (as provided in paragraph 2 above) at the first regular meeting after a fully staffed Board is re-established by the Selectmen.

(b) In the event that all three of the officers of the Board are no longer available (as specified in Section (a) above), the Board shall elect a Chairman and a Clerk on a pro-tem basis from the remainder of the regular and associate members.

3. Responsibilities of the Chairman

The Chairman shall vote on all matters coming before the Board. He/she shall preside over meetings of the Board and shall decide all points of order, unless over-ruled by a majority of the Board acting in session at that time. The Chairman shall appoint such committees as necessary or desirable. In addition to powers granted by general law and local bylaw, and subject to these rules and further instructions of the Board, the Chairman shall:

- (a) transact the official business of the Board;
- (b) supervise the work of the Clerk;
- (c) request necessary help;
- (d) direct the work of the Board, and exercise all supervisory power, and
- (e) at each meeting, report on all official transactions that have not hostilities come to the attention of the Board.

4. Responsibilities of the Vice-Chairman

The Vice-Chairman shall act as Chairman in case the Chairman is absent, disabled or otherwise unable to perform his/her duties. The Vice-Chairman shall plan and monitor the budget of the Board and shall authorize the expenditure of the Board's funds, as previously approved by the Board.

5. Responsibilities of the Clerk

The Clerk of the Zoning Board of Appeals shall:

- (a) be responsible for notifications required by law and the rules and regulations of the Board;
- (b) receive, review and accept or reject all petitions before the Board for their compliance with the rules and regulations, notifying the Board at meetings subsequent to such action of the actions taken in this regard;

- (c) maintain dockets and minutes of the Board's proceedings;
- (d) be responsible for compilation of records, files, and indexes as required;
- (e) prepare the decisions of the Board;
- (f) file notifications of decisions of the board with the Town Clerk and others as required by the Zoning Act; and
- (g) call the roll at Board Meetings.

6. Powers of the Board

The powers of the Zoning Board of Appeals are established by Chapter 40A of the Massachusetts General Laws and the Zoning Bylaw of the Town of Bedford. The Board has the power to summon witnesses and call for the production of papers.

ARTICLES II - PETITIONS

Every petition for action by the Zoning Board of Appeals shall be made on an official form. Upon request, this form will be furnished to the petitioner by the Town Clerk. A petition, to be valid, must be filed by (or with the specific written authorization of) all owners of record of the property which is the subject of the petition.

Attachment 1 is a sample of the required form. Any communication purporting to be a petition shall be treated as mere notice of intent to seek relief, until such time as it is made on the official form. All information call for by the form shall be furnished by the petitioner, typewritten, in the manner prescribed and in conformity with provisions of these rules and regulations. Ten signed copies of this form must accompany plans, so as to comprise a valid petition,

1. Subject of the Petition

The subject of the petition shall be explicitly set forth on the form in two ways. The pertinent paragraph(s)/provision(s) of the Zoning Bylaw or Sign Bylaw, as appropriate, shall be identified to the lowest applicable subsection. If the petition is requesting a variance from more than one paragraph/provision, all such paragraphs/provisions must be identified. In addition, a short plain language description shall be provided which sets forth the essence of the variance or permit: what is being requested; why it is being requested; and the expected result, should the petition be granted.

2. List of abutters

Except for petitions relating to variances under the Bylaw for Residential Districts, a petition for either a zoning variance or a special permit shall be accompanied by a list of the "parties of interest," as required by Chapter 40A, Section 11 of the Massachusetts General Laws, and defined herein as:

- (a) owners of the abutting land, ("the abutters");
- (b) owners of land directly opposite, on any public or private street or way; and
- (c) abutters to the abutters within 300 feet of the property line of the petitioner.

These owners/abutters shall be the owners as they appear on the most recent tax

lists (even if in another town). The list of abutters must be certified by the Town Assessor and provided in duplicate with the petition.

3. Zoning Bylaw Petitions

For petitions having to do with zoning, a complete plot plan of the land, in four copies, certified by a registered professional architect, engineer, surveyor, or landscape architect must accompany the petition. When such features as lot dimensions, areas and topographic contours, location of buildings, or drainage are pertinent to the matter before the Board, they must be included on the plan. The plan shall show:

- (a) a north point;
- (b) name of streets;
- (c) zoning, wetlands or flood-plain boundaries applicable to the property;
- (d) names of owners of record of properties abutting the subject property;*
- (e) all proposed structures or alterations, with distances from boundaries; and
- (f) for industrial, commercial or business lots, the dimensions of the lot, percentage of the lot covered by principal and accessory buildings, and required parking spaces.

* Requirement (d) does not apply to petitions involving a private residence in a Residential District.

4. Sign Bylaw Petitions

If the petition is filed under the Sign Bylaw, or under the applicable provision of Chapter 11 of the Massachusetts General Law, a dimensioned drawing showing the location of the proposed sign and a drawing to scale of the display surface of the sign, as defined in Chapter 11, shall be filed in four copies with the petition. The Sign Bylaw should be consulted for reference.

5. Errors in Filing

When, in its opinion, the Bedford's ability to reach a decision on the basis of all material facts has not been substantially impaired, the Board may waive any failure to comply with the exact technical requirements for filing. Whenever a decision is rendered on a petition with a filing error, any such failure to comply shall be deemed to have been waived.

6. Fees

Effective after March 7, 1985, the fees for hearings, which must accompany petitions to the Zoning Board of Appeals shall be as follows:

- (a) Appeals to affirm or reverse the actions of the Building Inspector or others\$150
- (b) Appeals for variances or special permits under the Bedford Zoning Bylaw or Chapter 40A of the Massachusetts General Laws

1. Industrial Districts	\$400
2. Commercial Districts	\$200
3. Business Districts	\$200
4. Residential Districts	\$100

5. Cluster Developments (Sec.8)	\$400
6. Planned Residential Development (Sec.9)	\$400
7. Nursing Care Facilities (Sec.10)	\$400
(c) Appeals under the Sign Bylaw	\$100

7.

Single appeals on matters pertaining to land in more than one district are governed by the maximum district fee. Appeals by a Town Officer or Board on behalf of the Town requires no fee. Fees may be waived or reduced when doing so is deemed to be in the general or public interest, by action of the Chairman, with the approval of the Board.

ARTICLE III. MEETINGS/HEARINGS

Regular meetings of the Zoning Board of Appeals will be held on the dates and at the locations and times set by the Board. Special or emergency meetings of the Board may be called by the Chairman or by a majority of appointed members of the Board, as required to carry out the business of the Board, but in conformity with requirements of the General Laws for notice and posting.

1. Hearing of Petitions

Petitions will be considered by the Board at a public hearing held at a time and place fixed by the Board. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing. The notice must also be posted in a conspicuous place in the Town Hall for a period of not less than fourteen (days) before the day of the hearing. Notice to "parties of interest" must be sent by mail.

The hearing must be held within sixty-five (65) days of the receipt of the petition from the Town Clerk. Except for issues regarding special permits, a decision must be made within seventy-five (75) days of receipt of the petition or appeal of a Zoning Bylaw issue. Decisions on requests for special permits shall be made within ninety (90) days after the public hearing. Notice of the decision must also be provided, in writing, to the petitioners, abutters, and others as appropriate.

2. Quorum of the Board

A quorum shall consist of five members. Only members present throughout the entire hearing shall vote on a petition before the Board in the absence of one or more regular members at the discretion of the Chairman, as announced at the beginning of the hearing of the petition.

3. Absence of a Quorum

In such a case where there lacks a quorum, the Chairman shall reschedule the hearing on consultation with the Board. By posting appropriate notice, the Clerk shall notify all interested parties of the time and place of the rescheduled

meeting. Further, the Clerk shall notify, in writing, all abutters and any other persons who may have displayed an interest in the current matter before the Board. Such parties must file their name and address with the Clerk at the meeting at the time of postponement. At the discretion of the Board, acting as a whole, advertised notice of continuance may also be given in a newspaper of general circulation in the Town.

No additional fee will be required for a petition rescheduled because a meeting was lacking a quorum.

4. Waiver of a Quorum

Should a petitioner desire, on direct request to the Board within the confines of the subject meeting, requirements for a quorum may be waived by unanimous vote of the Board then acting, but in no case where less than four members of the Board are seated.

5. Decision of the Board

A decision of the Board to grant a petition requires an affirmative vote of four members.

6. Continuations

Continuations of adjourned hearings and/or meeting may be scheduled at the time of adjournment with due consideration and notice being given to all interested parties in attendance at the hearing at the time of the adjournment. Notice of continuance will also be posted at Town Hall.