

The Zoning Board of Appeals is a **quasi-judicial board**, which means it is empowered to hear and decide appeals of the Building Commissioner's decisions, and also to grant Special Permits and Variances pursuant to the Zoning By-Law of the City of Framingham, as set forth by Chapter 40A of the Massachusetts General Laws. Zoning decisions of the Board must be attached to the deed of the property in question by recording the decision with the Registry of Deeds.

Application

It is important that all the forms in the Application for Public Hearing be neatly completed as directed. The forms are now fillable in PDF format. *Applications must include the property owner*, even if not the project proponent. Applicants should schedule a meeting with the ZBA Administrator prior to the filing deadline to review the application for completeness. Once complete, staff will file it with the City Clerk. Please refer to the Application Guidelines document for more information on submitting an application.

Public Hearing

Your application requires a public hearing. Notice of the hearing will be mailed to all abutting property owners within 300 feet of your property. On the night of the hearing, three (3) members of the Zoning Board will hear each case. To grant a variance, special permit, or appeal, all three must vote to approve. For Chapter 40B comprehensive permits and Section 6 findings, two out of three members must vote in favor. It is essential to realize there is **NO GUARANTEE** the application will be approved.

For Special Permits, it is assumed that a given use is allowed where the conditions below are met.

For Variances, it is assumed that a proposed use or structure is NOT allowed, and the burden is on the Petitioner to demonstrate that the unique characteristics of the property create a substantial hardship that renders the property unusable as intended in the By-Law (see below). This means that typically, self-created situations such as the desire to create new buildable lots, or elective additions within the required setback, do not meet the State requirements for a variance, especially if the Petitioner is already using the property as intended in the By-Law.

VARIANCE – REQUIRED FINDINGS (Use or Dimensional):

1. *There are circumstances relating to the soil conditions, shape or topography of the land or structures for which the Variance is being sought.*
2. *Such circumstances especially affect such land or structures but do not affect generally the zoning district in which the land or structures are located.*

3. *Owing to such circumstances [requirements (1) and (2)], a literal enforcement of the provisions of the By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.*
4. *The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the By-Law or from the intent of the district in which the Variance is being sought.*

A Variance **applies to the land or structures, not just the applicant**, and shall be binding upon the applicant, its successors in interest and assigns. If a Variance is granted, the Board may impose any conditions they deem necessary.

SPECIAL PERMIT – REQUIRED FINDINGS:

1. *The specific site is an appropriate one for such a use or structure and would not impair the status of the neighborhood.*
2. *Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. Except for residences requiring fewer than five stalls, adequacy of proposed off-street parking facilities shall be determined by the Planning Board, in accordance with the provisions of Sections IV.A, IV.B, IV.C, and VI.E of the Zoning By-Law.*
3. *The use or structure as developed will not create a hazard to abutters, vehicles or pedestrians.*
4. *The use or structure is consistent with the intent of the district in which the use is proposed and with the purpose and intent of the By-Law.*
5. *All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient.*

If a Special Permit is granted, the Board may impose the following conditions or any other conditions deemed necessary:

1. Requirement of screened parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.
2. Modification of the exterior features or appearance of the structure.
3. Limitation of size, number of occupants, method or time of operation or extent of facilities.
4. Regulation of number, design and location of access drives or other traffic features.
5. A bond or other security to ensure compliance with the conditions of authorization.

The applicant and the owner(s) of land will be responsible for mitigation measures or conditions which are required as part of a favorable decision for issuance of a Special Permit.

SECTION 6 FINDING (for change to a lawful nonconforming use or structure):

Massachusetts General Law, Ch. 40A, §6 states that the Zoning By-law does not apply where the alteration of a one- or two-family house “*does not increase the nonconforming nature*” of the structure. It also allows alteration or reconstruction of other lawfully pre-existing nonconforming uses and structures, as determined by the City. In Framingham, the Building Commissioner refers these requests to the Zoning Board of Appeals for a **Section 6 Finding**. The Board must determine that the alteration, extension, or reconstruction does not increase the existing nonconformity.

Final Decision

Once the hearing is closed, the Board will vote to grant or deny the petition. This can happen at the initial ZBA meeting or at a future date as long as it does not exceed the Decision Deadline for your application. Chapter 40A of the Massachusetts General Laws requires that a decision be filed with the Framingham City Clerk by the following deadlines:

For a **VARIANCE or APPEAL** = within 100 days of filing the application with the City Clerk

For a **SPECIAL PERMIT** = within 90 days of the close of the public hearing

A formal written decision will be filed with the City Clerk within 14 days of the Board's vote. Once the decision is filed with the City Clerk, a **20-day appeal period** begins. After the 20-day appeal period, you should check with the Framingham City Clerk to learn whether any appeals were filed. If an appeal was filed, you should check with an attorney regarding what to do next. If no appeals were filed, the City Clerk will provide you with necessary paperwork for filing the decision with the Massachusetts Registry of Deeds before returning to the Building Department for your permits.

An instruction letter explaining these steps in greater detail and the fees required will be sent to you once your decision is filed with the City Clerk.

Expiration

In the event you are ultimately granted a Special Permit or a Variance, please be aware that the rights authorized by the Special Permit or Variance will lapse if they are not exercised by the following deadlines:

For a **VARIANCE**: within one (1) year of the date of filing the Decision with the City Clerk

For a **SPECIAL PERMIT**: within two (2) years of the date of filing the Decision with the City Clerk

Extension

The Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application, and upon the expiration of the original time period, such rights may be re-established only after notice and a new hearing pursuant to MGL c. 40A, §9.