

TOWN OF RICHMOND
PETITION
SPECIAL PERMIT VARIANCE/APPEAL

Please read the attached instructions before completing this form. Please provide all applicable information. Incomplete forms and failure to submit necessary documentation may cause rejection of the petition.

Property Owner _____

Property Owner Address and Phone _____

Petitioner (if different) Address and Phone _____

Representative (if applicable) Address and Phone _____

Location of Subject Property _____ Map _____ Lot _____

Zoning District _____ Book _____ Page _____

This Petition is for the Following:

Special Permit _____ Variance _____ Appeal _____

Pertinent Section of Zoning Bylaw _____ Permit Granting Authority _____

Project Description _____

(Attach narrative or additional sheets as needed)

Fee: \$200

The undersigned hereby certifies that this is a true and complete petition to the best of his or her knowledge:

Signature of Property Owner

Date

Received by the Town Clerk on this _____ day of _____ 20_____

Signature of Town Clerk

Town Of Richmond
Assessors Office
1529 State Road
Richmond MA 01254 (413) 698-2525

REQUEST FOR CERTIFIED ABUTTERS LIST

NAME: _____

ADDRESS: _____

TELEPHONE: _____

LOCATION OF
PROPERTY: _____

SUBJECT MAP: _____ SUBJECT PARCEL/LOT: _____

- PURPOSE:
- Definitive & Preliminary Subdivision Plan
(Within 300' of subject property)
 - Site Plan Review (within 300' of subject property)
 - Special Permit (within 300' of subject property)
 - Variance (within 300' of subject property)
 - Liquor License (direct abutters, to include churches, hospitals and
schools within 500' of subject property)
 - Wetlands Protection Act / Local Wetlands Ordinance (within 100'
of subject property)

I understand that up to two (2) weeks may be required for approval.

No request will be processed without an accompanying check made out to the Town Of
Richmond.

You may be subject to other charges and fees if this abutters list is to be used in conjunction with
a purpose that requires a public meeting or special filing.

I acknowledge that it is my responsibility to verify the accuracy of this abutter's list.

Signature of Requesting Party

TOWN OF RICHMOND

Instructions

Special Permits

Board of Selectmen
Zoning Board of Appeals
Planning Board

Variations and Appeals

Zoning Board of Appeals

These instructions describe how an applicant may petition for a special permit or variance from a Special Permit Granting Authority (SPGA) or how to appeal to the Zoning Board of Appeals a decision of the Building Inspector, Zoning Enforcement Officer or other administrative official.

The authority to grant special permits and variances and to hear appeals of administrative decisions is contained in Massachusetts General Law Chapter 40A and the Richmond Zoning Bylaw. Applicants are advised to familiarize themselves with these documents before filing petitions or appeals.

(Note- these instructions are a guide and are provided only as a courtesy to petitioners and appellants. Certain provisions regarding the SPGA's failure to act, the appeals process and other provisions have been deleted for space reasons. This guide should not be considered legal advice and any questions regarding the legal processes described should be directed to your attorney.)

SPECIAL PERMITS AND VARIANCES

The Zoning Bylaw provides for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. The Richmond Special Permit Granting Authorities are the Board of Selectmen, Zoning Board of Appeals and Planning Board. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the bylaws and such permits may impose conditions, safeguards and limitations on time and use.

The Zoning Board of Appeals has the sole authority to issue variances from the Zoning Bylaws with respect to particular land or structures. The Board may also authorize a use or activity not otherwise permitted in the district in which the land or structure is located. As with special permits, variances may be issued with conditions, safeguards and limitations on time and use.

1. Do You Need A Special Permit or Variance?

People often are informed that they need a special permit or variance when they file for a building permit and are advised by the Building Inspector or Zoning Enforcement Officer that their plans do not conform to the zoning bylaws. Other times people want to change or add a use at a property and they are told that such a use is not allowed without a special permit or variance. Before filing for a special permit or variance, make sure you know why you need to file, what sections of the bylaws govern the proposed construction or use and which SPGA will hear your petition.

2. File The Petition With The Town Clerk

The town uses a standard petition form for special permits, variances and appeals. The petition asks for the name and address of the petitioner and the property owner (if different) and other information about the proposed construction or use, including the section of the bylaws that governs the proposed activity. The more information that you can provide on the petition, the easier it will be for the SPGA to understand and properly evaluate the petition. There is a \$200 fee for special permits and variances, which covers legal advertising, postage and clerical costs.

You must file a minimum of three copies of your petition. Photocopies are acceptable and 8.5 x 11 copies of all documents are strongly preferred. You must include with your petition three copies of the following:

- a. Prints of the latest recorded plan of the subject property, prints of a plan of the property endorsed by a registered engineer or surveyor or copies of the applicable Assessors' Maps.
- b. The plan must show the dimensions of the lots and area and existing and proposed buildings and their dimensions, including floor area. Show also the distance of the buildings from lot lines, the scale of the plan, a north arrow, existing or proposed well and septic system sites and any significant natural features, such as ponds or streams. If construction is for more than one story, also show the front and side building elevations.

The Town Clerk will sign the petition and will provide you with a copy of the signed petition. The copy of the petition will serve as your receipt of the filing.

3. File The Petition With The SPGA

You must file a copy of your petition, showing the date and time certified by the Town Clerk, with the SPGA. The Town Secretary ordinarily works the same hours as the Town Clerk and you may file your certified petition with her or with the chairman of the SPGA.

4. Public Hearing And Notification Requirements

Once you submit your petition to the SPGA, the SPGA will perform a number of tasks to prepare for a public hearing. You will not be required to perform any of these administrative tasks, but it is useful for you to know what they are:

- a. The SPGA will set a time and date for the public hearing and will draw up a public notice. The notice will say who the petitioner is, where the property is located and what is requested in the petition. It will reference the portion of the bylaws under which the petition is sought and give the time, date and location of the public hearing.
- b. The public notice will be published in the Berkshire Eagle. It must run as a legal advertisement in two successive weeks, at least 14 days and 7 days before the hearing.
- c. The public notice must be posted at Town Hall at least 14 days before the hearing.

d. The public notice must be mailed to "Parties in Interest". They include:

- The petitioner (you)
- Other property owners, in Richmond or in adjacent cities and towns, as certified by the Board of Assessors and according to the most recent applicable tax list. These property owners are: abutters; owners of land directly opposite on any public or private street or way; and abutters to abutters within 300 feet of the property line of the petitioner
- The Richmond Planning Board
- The Planning Board of every abutting city and town:
Hancock, Pittsfield, Lenox, Stockbridge, West Stockbridge

e. Complete copies of the petitions, with all other documents, must be distributed for review to other town boards. It must be done within 10 days and the other boards have 35 days to reply. The other boards are: Board of Health, Planning Board, Board of Selectmen, Conservation Commission, and any other town board or agency, at the discretion of the SPGA.

f. The public hearing must be held within 65 days of the filing of the petition. The petitioner and other proponents, as well as opponents of the petition, will be allowed to speak. The names and addresses of all attendees will be recorded and a careful record of the proceedings will be kept.

5. Decision

The SPGA must make a decision within 90 days of the date of the public hearing on a special permit or 100 days on a variance. It can only be approved by a unanimous vote of a three member board and a four-fifths vote of a five member board. Failure by the SPGA to act automatically grants the permit.

Before granting a special permit, the SPGA must find that the proposed use:

- (a) Is in compliance with all the provisions and requirements of the Zoning Bylaw and in hannony with its general intent and purpose.
- (b) Is not undesirable or does not substantially derogate from the public good or convenience at the proposed location
- (c) Will not be detrimental to adjacent uses or to the established or future character of the neighborhood.
- (d) Will not create undue traffic congestion or unduly impair pedestrian safety.
- (e) Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting public health, safety or general welfare.

The Zoning Board of Appeals, likewise, must make specific findings when granting a variance.

The findings are:

- (a) Owing to circumstances relating to the soil conditions, shape, or topography of such land or location of structures and especially affecting such land or structure, but not affecting generally the zoning district in which it is located.
- (b) A literal enforcement of the provisions of the bylaws would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
- (c) 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 bylaws.

Decisions are filed within 14 days with the Town Clerk and there is a 20 day waiting period from the date of the clerk's certification before the decision becomes effective, during which time any aggrieved party may appeal the decision to the land court department, superior court department or district court department. Copies of the decision must also be mailed to the applicant and the owner of the property, if the owner is not the applicant, the Parties in Interest, and to anyone who attended the hearing and requested a copy. The notice of decision must state that appeals must be made within twenty days of the filing of the decision.

No building permit or any other town permit may be issued during this waiting period. Once the waiting period is over, the decision is sent to the petitioner. A copy of the decision and all other documents are filed with the Town Clerk and Planning Board.

No appeal, application or petition which has been unfavorably and finally acted upon shall be acted favorably upon within two years after the date of final unfavorable action, unless the SPGA finds specific and material changes in the conditions upon which the previous unfavorable action was based. All but one of the members of the Planning Board must also consent to the finding.

Once the process is complete, the petitioner must file the decision with the Berkshire Middle District Registry of Deeds in Pittsfield.

APPEALS

The Board of Appeals is authorized to hear and decide on appeals by any person aggrieved by reason of his inability to obtain a permit or enforcement action from the Building Inspector or other administrative officer, the Berkshire Regional Planning Commission, any person, including an officer or board of the Town of Richmond, an abutting city or town aggrieved by an order or decision of the Building Inspector or other administrative official in violation of Chapter 40A or the bylaw.

1. File the Appeal with the Town Clerk

Any appeal to the Zoning Board of Appeals must be taken within 30 days from the date of the order or decision which is being appealed. The appeal must state the grounds for the appeal. The Town Clerk will mark the document with the time and date and return a copy of the petition to the appellant, which will serve as a receipt for the filing. There is a \$125 fee for the appeal, which covers legal advertising, postage and clerical costs.

2. File the Appeal with the Zoning Board of Appeal and Officer or Board Whose Order or Decision is Being Appealed

You must file a copy of the appeal, showing the time and date received by the Town Clerk, with the Zoning Board of Appeals and with the officer or board whose decision is being appealed. The Town Secretary ordinarily works the same hours as the Town Clerk and you may file the copies of your appeal with her, in lieu of filing directly with the ZBA. She must then provide all documents and paperwork of the case to the ZBA.

3. Public Hearing and Notification Requirements

The public hearing must be held within 65 days from the receipt by the ZBA of the appeal and the notification requirements are identical to those outlined above for special permits and variances. At the public hearing, the appellant and proponents of the appeal, as well as those in opposition, will be allowed to speak. The names and addresses of all attendees will be recorded and a careful record of the proceedings will be kept. The chairman, or in his absence, the acting chairman, may administer oaths, summon witnesses and call for the production of papers.

4. Decision

The decision of the Zoning Board of Appeals must be made within 100 days after the date of the filing of the appeal. Within 14 days, the decision must be filed with the Town Clerk and copies of the decision must be mailed to the appellant, to the parties in interest and to every person who attended the hearing and who requested a copy of the decision and provided an address to which the decision may be sent. Failure of the board to act within 100 days automatically grants the appeal. As with special permits and variances, there is a 20 day waiting period before the decision becomes effective, during which time aggrieved parties may appeal the decision to the land court department, the superior court department or the district court department.

No building permit or any other town permit may be issued during the 20 day waiting period. Finally, as with special permits and variances, no appeal which has been unfavorably and finally acted upon shall be acted favorably upon within two years after the date of the unfavorable action, unless the ZBA finds specific and material changes in the conditions and all but one member of the Planning Board consents to the finding.

(REV-8/13)