

ZONING BOARD OF APPEALS

*11 LINCOLN STREET
PLYMOUTH, MA 02360*

(508) 747-1620 Ext. 138

NOTICE TO ALL ZONING BOARD OF APPEALS PETITIONERS

y y y PLEASE NOTE p p p

Effective November 15, 2006, ALL applications for the Zoning Board of Appeals shall be filed by the applicant with the secretary to the Board. A copy of the application including all documentation will be submitted to the Town Clerk by the Zoning Board of Appeals office.

Petitioners should meet with the Administrative Assistant to the Zoning Board to insure that their applications are complete and comply with the attached instructions. If the Administrative Assistant is not available the Planning Secretary will accept the application subject to review by the Zoning Board of Appeals Administrative Assistant before submission to the Town Clerk.

ZONING BOARD OF APPEALS

**REGULATIONS GOVERNING FEES
AND
FEE SCHEDULES**

**Adopted June 11, 2003
Amended November 15, 2006**

SECTION 1. INTRODUCTION.

1.1 Procedural History. Pursuant to G.L. c. 40A, ss. 9 and 12, the Zoning Board of Appeals has adopted regulations governing fees and a new schedule of fees for review conducted by the Zoning Board of Appeals and its consultants on the various types of applications which come before it.

SECTION 2. FEE STRUCTURES AND REGULATIONS.

2.1 General. The Zoning Board of Appeals shall impose reasonable fees for the review of applications which come before it. The Zoning Board of Appeals may impose Administrative Fees and Project Review Fees as may be applicable to the types of applications set forth below.

2.2 Form of Payment. All Administrative and Project Review Fees shall be paid by bank or certified check.

SECTION 3. ADMINISTRATIVE FEES.

3.1 Applicability. An Administrative Fee shall be assessed to offset the expense of review by the Zoning Board of Appeals and Town employees.

3.2 Submittal. Administrative Fees shall be submitted at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

3.3 Schedule of Administrative Fees. The following schedule applies to the types of applications to the Zoning Board of Appeals set forth below.

<i>TYPE OF RELIEF SOUGHT</i>	<i>REQUIRED FILING FEE</i>
1. Appeal pursuant to G.L. Chapter 40, Section 8	\$1000.00
2. Variance pursuant to G.L. Chapter 40A, Section 10	\$100.00 (Residential) \$200.00 (Commercial)
3. Relief for Combination of two or more	\$150.00 (Residential) \$400.00 (Commercial)

4. Special Permit pursuant to G.L. Chapter 40A, Section 9, \$100.00 (Residential)
NOT SUBJECT to Environmental Design Conditions \$200.00 (Commercial)
 pursuant to Section 205-03:

5. Special Permit pursuant to G.L. Chapter 40A, Section 9, **SUBJECT** to
 Environmental Design Conditions pursuant to Section 205-03:
 - a) If area of property is less than or equal to 10,000 square feet \$200.00
 - b) If area of property is greater than 10,000 square feet and less than or equal to 50,000 square feet \$250.00
 - c) If area of property is greater than 50,000 square feet and less than 150,000 square feet \$400.00
 - d) If area of property is greater than 150,000 square feet \$550.00

6. Special Permit pursuant to Section 205-25 for non-conformities (Commercial property including apartments) \$450.00

7. Comprehensive Permits per G.L. Chapter 40B \$750.00

3.5. Fee Waivers. The Zoning Board of Appeals may waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

3.6 Refund. Once the review process has been commenced, the Zoning Board of Appeals shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant, except as provided in Section 3.5, above.

SECTION 4. PROJECT REVIEW FEES.

4.1 Applicability. In addition to an Administrative Fee, the Zoning Board of Appeals shall impose a Project Review Fee on those applications which require, in the judgment of the Zoning Board of Appeals, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

4.2 Submittal. Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to G.L. c. 44, s. 53G (53G Account). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

4.3 Schedule of Project Review Fees. The following schedule applies to the types of applications to the Zoning Board of Appeals set forth below. This schedule supersedes all previous schedules as they may have appeared in the Zoning By-Laws and any listings which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Zoning Board of Appeals for action, only the largest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees.

A. Original Special Permit, Variance, or Comprehensive Permit or Modification thereof:

<u>Project Size</u>	<u>Fee</u>
5 - 15 Lots/Units	\$ 4,000
16 - 20 Lots/Units	\$ 6,000
21 - 25 Lots/Units	\$ 10,000
More than 25 Lots/Units	\$ 20,000

OR

40,001 – 100,000 sf building size	\$ 6,000
100,000 +	\$ 15,000

OR

Twenty or fewer Parking Spaces	\$ 2,500
Twenty-One or more Spaces	\$ 5,000
Wireless Communications Facility	\$ 3,000

B. Administrative Appeal of a Decision of the Building Commissioner

	\$ 1,000
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4.4. Fee Waivers. The Zoning Board of Appeals may waive or reduce any Project Review Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

4.5 Replenishment. When the balance in an applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Zoning Board of Appeals shall consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.

4.6 Inspection Phase. After the granting of a Special Permit, Variance, or Comprehensive Permit, the Zoning Board of Appeals may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

4.7 Handling of Project Review Fees. The Project Review Fee is to be deposited into a special account as set forth in G.L. c. 44, s. 53G.

- A.** Outside consultants retained by the Zoning Board of Appeals to assist in the review of an application shall be paid from this account.
- B.** Project Review Fees shall be turned over to the Town Treasurer by the Zoning Board of Appeals for deposit into a 53G Account.
- C.** A copy of the latest statement from the banking institution handling the 53G Account shall be forwarded from the office of the Town Treasurer to the office of the Zoning Board of Appeals as soon as it is received for timely and accurate accounting.
- D.** An accounting of an applicant's funds held in the 53G Account may be requested by the applicant at any time.
 - 1.** The Zoning Board of Appeals shall respond to the request in a timely fashion.
 - 2.** This accounting shall include the following information:
 - a.** The latest statement from the banking institution handling the account, which should include an accurate accumulated interest portion to the closing date of the statement if such statements are subdivided into individual applicants' accounts. Otherwise, a statement of principal and interest, prepared by the office of the Zoning Board of Appeals, based on the latest statement from the banking institution.
 - b.** A report of all checks authorized for issuance since that last banking statement.
- E.** An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
- F.** Excess fees in the 53G Account, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
 - 1.** With the filing of a decision with the Town Clerk denying or awarding a Special Permit, Variance, or Comprehensive Permit.
 - 2.** With the filing of a decision with the Town Clerk regarding an Administrative Appeal.

SECTION 5. DELINQUENT ACCOUNTS. The following rules apply to fees owed to the Zoning Board of Appeals by applicants:

5.1 Monthly Interest Charge. All fees past due by one month from the date of invoice shall be subject to a monthly interest charge based upon an annual interest rate of 14%.

5.2 Costs of Collection. All costs of collection associate with past due accounts shall be borne by the applicant.

5.3. Current Delinquents. All applicants owing fees to the Zoning Board of Appeals at the time of any amendment to these provisions of the regulations shall be sent the following:

- A. A duplicate notice of the amount past due.
- B. A copy of the applicable sections of these regulations with all amendments clearly indicated.
- C. Notice of a 30 day grace period before the commencement of any changes in interest rates or charges.

SECTION 6. REVISION OF FEE SCHEDULES AND REGULATIONS GOVERNING FEES.

6.1 Amendment. The Zoning Board of Appeals may review and revise its regulations and fee schedules, from time to time, as it sees fit.

- A. Amendments shall be preceded by a public hearing.
- B. Any new regulations or alterations to the fee schedule shall take affect upon filing a copy of the amendments with the Town Clerk.

REQUIRED INFORMATION FOR ALL ZBA PETITIONS

1. Four (4) copies of the Zoning Permit Application showing denial by the Director of Inspectional Services.
2. If this petition is **NOT** subject to Environmental Design Conditions:
 - a) Four (4) copies of the enclosed ZBA petition.
 - b) Twenty two (22) full-sized copies of ALL plans:
 - c) The Board of Appeals Chairman shall determine whether the following additional information is required per Section 205-9 A2: site plan, landscaping plan, grading plan, drainage calculations, architectural plans (and the extent of architectural information required), and/or a traffic study. Such additional information shall be submitted within such time as the Chairman may determine, or in the alternative, such information will not be required.
 - d) Low impact stormwater design and MassDEP best management practices for stormwater design are strongly encouraged.
 - e) PDF files of plans are strongly encouraged.
3. If this petition is SUBJECT to the Inclusionary Housing Section of the Zoning Bylaw (§ 205-71), the filing shall include (3) copies of ONE of the following, in order of preference:
 - a) The Memorandum of Understanding (MOU) between the developer and the Plymouth Housing Authority as described in the *Developing Affordable Housing In Plymouth* guide, or
 - b) The information requested for submittal to the Plymouth Housing Authority and the Plymouth Office of Community Development under “Review Process for Developers” in the *Developing Affordable Housing In Plymouth* guide, or
 - c) The information required per § 205-71 Paragraph 3, or
 - d) A written request for waivers of this requirement stating the reasons for this request, or
 - e) A written explanation of reasons Petitioner seeks confirmation of exemption from said requirements.
4. A certified list of abutters shall include the owners of land within a 300’ radius. The applicant shall provide the Assessor’s Office with a list of all abutting properties within the 300’. In turn, the Assessor’s Office shall certify this list with the names and current addresses for a \$20.00 fee. (Form enclosed). When you receive the certified abutter’s list you must prepare two sets or mailing labels for all abutter’s OR

you can address two sets of plain white business envelopes with each abutter's name and mailing address (do not include your return address). Please include a set of labels for yourself. This information along with the certified list must be included with your application.

5. All petitioners requesting setback variances, special permits and appeals (if applicable) must submit a site plan stamped by an appropriately licensed Professional as set forth in the Massachusetts Code of Regulations, i.e. Engineers, Architects or Land Surveyors. Setbacks and dimensions should also be shown locating all buildings and structures on the lot; the nearest of abutting property owners; street or any other identifying information, and all contemplated changes or additions. The proposed requested relief shall be staked off on the property wherever applicable. If it applies to the petition being submitted, parking, lighting, landscaping, square footage of living area, and any and all signage is to be shown on this plan. The plan MUST be dated within the last two years. ***PLEASE NOTE: ONCE AN APPLICATION TO THE ZONING BOARD OF APPEALS HAS BEEN FILED IN THE ZONING BOARD OF APPEALS' OFFICE, NO CHANGES MAY BE MADE BY THE APPLICANT TO ANY PLANS ACCOMPANYING SUCH APPLICATION UNLESS THE CHANGES HAVE BEEN REQUESTED OR ALLOWED BY THE ZONING BOARD OF APPEALS DURING THE PUBLIC HEARING. IF THE APPLICANT DESIRES TO REVISE THE PLANS PRIOR TO THE PUBLIC HEARING ON THE APPLICATION, THE APPLICANT MUST SUBMIT THE PROPOSED REVISIONS, TOGETHER WITH A WRITTEN SUMMARY AND EXPLANATION OF ALL CHANGES, TO THE ZONING BOARD OF APPEALS OFFICE NO LESS THAN ONE WEEK PRIOR TO THE SCHEDULED PUBLIC HEARING DATE. THE ZONING BOARD OF APPEALS MAY REFUSE TO ACCEPT ANY REVISED OR SUPPLEMENTAL PLANS WHICH HAVE NOT BEEN SUBMITTED IN ACCORDANCE WITH THIS POLICY. ALTERNATIVELY, PROVIDED THAT THE APPLICANT PROVIDES A SIGNED AGREEMENT TO EXTEND THE TIME IN WHICH THE ZONING BOARD OF APPEALS MUST ACT ON THE APPLICATION, THE BOARD MAY CONTINUE THE HEARING FOR A REASONABLE PERIOD OF TIME WHILE IT DETERMINES WHETHER OR NOT THE PLAN REVISIONS WILL BE ACCEPTED FOR CONSIDERATION AND UNDER WHAT CONDITIONS.***

6. If the petition **IS** subject to Environmental Design Conditions:
 - a) Sixteen (16) copies of the Zoning Board of Appeals application.
 - b) Sixteen (16) copies of the Environmental Design Impact Statement.
Twenty four full sized copies of ALL plans. These plans should show all the information set forth in paragraph 5 above, as well as any additional information required under the Zoning By-law.
 - c) The Board of Appeals Chairman shall determine whether the following additional information is required per Section 205-9 A2: site plan, landscaping plan, grading plan, drainage calculations, architectural plans (and the extent of architectural information required), and/or a traffic study. Such

additional information shall be submitted within such time as the Chairman may determine, or in the alternative, such information will not be required.

- d) Low impact stormwater design and MassDEP best management practices for stormwater design are strongly encouraged.
 - e) PDF files of plans are strongly encouraged.
7. A check made payable to the Town of Plymouth for the application-filing fee. (See attached fee schedule).
 8. A check made payable to Community Newspaper Company for \$110.00 (or the most current cost as established by the newspaper where the advertisement will be run) for the cost of advertising the petition. State Law requires that a legal notice be published in a local newspaper once in each of two consecutive weeks, the first publication to be not less than 14 days before the hearing date. You will be notified by mail at least a week prior to the date of your hearing.
 9. A copy of the most recently recorded Deed or Certificate of Title for the subject premises.
 10. Two (2) Waivers with respect to the Statutory Time Requirements. (See attached explanation for the reason behind this request).

NOTICE TO ALL PETITIONERS

In addition to the foregoing, all petitioners are encouraged to submit photographs in order to assist the Planning Board, Design Review Board, and this Board, in their respective evaluations of the merits of the subject petition. All information supplied by a petitioner to the Board, pursuant to the foregoing list, is relied upon for accuracy by the Board, Plymouth County Registry of Deeds, and the Land Court Registry District of Plymouth County. Accordingly, it is imperative that all required submitted information be complete and accurate.

The Planning Board and/or the Design Review Board will review your petition prior to the Zoning Board of Appeals hearing. The petitioner or their representative may be contacted to appear before either one or both of these Boards.

ZONING BOARD OF APPEALS
PETITION APPLICATION

PETITIONER: _____ DATE: _____

PETITIONER/ADDRESS: _____

LOCATION OF PROPERTY: _____

ASSESSORS' PID NO. _____ ZONE: _____

OWNER OF PROPERTY: _____
(IF OTHER THAN PETITIONER)

ADDRESS OF OWNER: _____
(IF OTHER THAN PETITIONER)

TITLE REFERENCE:
BOOK NO. _____ PAGE NO. _____ (UNREGISTERED LAND)

CERTIFICATE OF TITLE NO. _____ (REGISTERED LAND)

DID YOU OWN THIS PROPERTY ON JANUARY 1ST? _____

IF NOT, WHO WAS THE OWNER ON JANUARY 1ST? _____

REASONS FOR THIS REQUEST, INCLUDING PROVISIONS OF THE ZONING BY-LAW FROM WHICH RELIEF IS REQUESTED: (PLEASE CHECK THE ZONING DENIAL FOR THIS INFORMATION)

SIGNATURE _____ (OWNER OR AGENT)

MAILING ADDRESS: _____

PHONE NUMBER: _____

(4 Originals needed)

EXPLANATION OF WAIVER REQUESTS REGARDING STATUTORY

TIME REQUIREMENTS

Massachusetts General Laws, Chapter 40A, Section 9, requires that with respect to any petition for a Special Permit, a Public Hearing must be held within 65 days after the filing of the petition, and a decision must be made within 90 days following the holding of a Public Hearing.

Massachusetts General Laws, Chapter 40A, Section 15, requires that with respect to any petition for a Variance or any Appeal from a decision of the Building Commissioner/Zoning Agent, a Public Hearing must be held within 65 days after the filing of the petition or Appeal, and a decision must be made within 75 days after the filing of the petition or Appeal.

As a result of budgetary constraints, the Zoning Board of Appeals often finds itself unable to meet the above statutory time requirements. Specifically, our heavy case load often prevents us from holding hearings within the applicable 65 day period, and we are often similarly prevented from making and filing our decision within the above 90 or 75 day period, as the case may be. It is for this reason that the Board must often request petitioners to waive the benefit of the above statutory time requirements.

***BOARD OF APPEALS
11 LINCOLN STREET
PLYMOUTH, MA 02360***

Ladies and Gentlemen:

I hereby waive the benefit of the time requirements set forth in the By-law and in Chapter 40A of the Massachusetts General Laws which require the Board of Appeals to hold a hearing and then to make and file its decision within the time periods specified therein.

SIGNATURE

ZBA CASE NO. (Provided by office)

***BOARD OF APPEALS
11 LINCOLN STREET
PLYMOUTH, MA 02360***

Ladies and Gentlemen:

I hereby waive the benefit of the time requirements set forth in the By-law and in Chapter 40A of the Massachusetts General Laws which require the Board of Appeals to hold a hearing and then to make and file its decision within the time periods specified therein.

SIGNATURE

ZBA CASE NO. (Provided by office)

(2 Originals needed)

