



# **Town of Hudson**

## **Zoning Board of Appeals**

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### **Application Package**

Special Permits, Variances, and Administrative Appeals  
(Appeals of the Building Commissioner's Decisions)

To determine if you must petition the Hudson Zoning Board of Appeals:

- Refer to the Town of Hudson Zoning Bylaws
- Inquire at the Building Department or with the Town Planner
- Consult an Attorney

Please note that once the petition is filed, it is not appropriate for any members of the Board to review the specific details of your situation outside of the Public Hearing after the petition has been filed.

In order to fulfill the requirements of MGL Ch. 40A, applications must be submitted, in completion no later than 12:00 noon 16 working days prior to the scheduled hearing date. Hearings are usually held on the second Thursday of the month.

The Applicant or applicant's Representative is required to attend all Public Hearings. If the applicant or applicant's representative is not present at a hearing the Board will either continue the hearing or, in order to avoid a constructive grant, deny the application based on lack of input and inability of the applicant to advise his intent.

The following is required by the Board of Appeals when you submit a petition in accordance with MGL Ch. 40A and the Town of Hudson Zoning Bylaws:

1. Ten (10) copies of the completed Board of Appeals application form.

2. Ten (10) copies of the written denial for a building permit from the Hudson Inspection Department.
3. Ten (10) copies of a recent (no later than 3 months old) Certified Abutters List from the Assessor's Office (Please allow 10 days for request to be compiled).
4. Two (2) sets of mailing labels for each name on the Certified Abutter's List (Available from the Assessor's Office for an additional cost).
5. Ten (10) copies of the Deed. If the petitioner is not the owner, petitioner must provide to the Board a copy of the Purchase and Sale Agreement or any other documentation, which entitles him/her to have standing.
6. Ten (10) sets of four (4) current photographs of the premises. Include a photograph of the front, the rear and the sides. Additional views may be submitted.
7. Ten (10) copies of the proposed plan of the property, signed and dated by a Registered Land Surveyor/Professional Engineer indicating the following:
  - Address, square footage of the lot, and zoning district in which property is located
  - Metes and bounds of land
  - Names of abutting streets or identifying landmarks
  - All existing structures on the lot with relevant setbacks from the affected lot lines
  - Dimensions of any proposed addition or structure including bay windows and chimneys and all relevant setbacks
  - Existing and proposed square footage of all structures on lot
  - Location of parking (existing and proposed)
  - Driveways
  - Location of all structures on immediately abutting lots
  - All easements, streams and/or wetland areas
  - Location of wells and septic, if applicable

8. Ten (10) copies of all construction plans, which shall include the following:
  - Name of designer
  - Date of plan design
  - Name and address of applicant
  - Existing and proposed floor plans for all floors affected by the proposed structure.
  - Existing and proposed elevation drawings of all sides of the structure affected by the proposed structure
  - Plans shall be no larger than 11” by 17”
  - For the conversion of a one-family dwelling to a two-family dwelling, include a building plan showing that the exterior appearance will not be changed from the character of a single-family
  
9. If this is an application for multiple residences falling under requirements of Section 5.2.3.1 j of the By-Laws, you must provide sufficient data substantiating that the requirements of the By-Law will be satisfied.
  
10. If this is an application for floodplain/wetland use falling under requirements of Section 5.7 of the By-Laws, you must provide sufficient data substantiating that the requirements of the By-Law will be satisfied.
  
11. If this is an application for the Watershed Protection District falling under requirements of Section 3.3.10 of the By-Laws, you must provide sufficient data substantiating that the requirements of the By-Law will be satisfied.
  
12. If this is an application for the Retirement Community Overlay District falling under requirements of Section 5.8 of the By-Laws, you must provide sufficient data substantiating that the requirements of the By-Law will be satisfied.

13. If this is an application for the Wireless Communication Facility Overlay District falling under requirements of Section 5.9 of the By-Laws, you must provide sufficient data substantiating that the requirements of the By-Law will be satisfied.

14. If this is a petition to convert a one-family dwelling into a two-family dwelling, and the premises are not served by Town sewer, you must submit evidence, signed by the Board of Health, that the premises is able to be served by a properly designed sewage system.

15. If this is an application for a Continuance, Expansion, or Re-establishment of a non-conforming use, the information you provide describing the basis for your petition should include:

- How the property is presently used.
- How you intend to use the property.
- How the property will be enlarged or changed to a specific new use.
- Evidence that the premises, or non-conforming use of the premises, existed at the time of the original adoption of the Zoning By-Law.
- If applicable, how long the non-conforming use was discontinued.

16. If this is a Petition for a Special Permit for a specific use, the information you provide describing the basis of your petition should include:

- How the property is presently used.
- How you intend to use the property
- How the specific use will not:
  - Have an adverse effect on present and future dwellings in the vicinity.
  - Create traffic hazards or volume greater than the capacity of the streets effected.
- For multiple dwellings in Commercial District (except C-1):
  - How the non-residentially zoned area will not be adversely affected by the residential use.
  - How permitted uses in the district will not be noxious to residential use.
- For conversion of a one-family dwelling into a two-family dwelling, show that the

one-family dwelling existed at the time of the original adoption of the By-Law.

17. If this is a petition for a Variance from the terms of the Zoning By-Law, the information you provide describing the basis of your Petition should include:

- How soil conditions, shape or topography of the lot affect your land or structure but not the rest of the zoning district.
- How a literal enforcement of the Zoning By-Laws would involve substantial hardship, financial or otherwise, that is not self-imposed.
- How your Petition may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the Zoning By-Law.
- Details describing the intended use or activity, showing that the intended use or activity would normally be allowed in the zoning district.

18. If this is an application for approval of a specific Scientific or Flood Plain use, the information you provide describing the basis of your Petition should include:

- For accessory use in connection with scientific research or development: How the proposed activity is necessary in connection with scientific research or scientific development or related production.
- For use in a Flood Plain/Wetland District:
  - How the use will not significantly conflict with the purposes set forth in Section 5.7.1.1 of the By-Laws.
  - How such use is designed, placed and constructed to offer a minimum obstruction to the flow of water, is firmly anchored, and is not in a floodway.

19. If this is an application for approval of a use in the Watershed Protection District:

- Submit five (5) additional copies of the entire petition.
- Include information describing how the proposed use:
  - Is in harmony with the purpose and intent of the by-law and will promote the purpose of the Watershed Protection District.
  - Is appropriate to the natural topography, soils, and other characteristics of the site to be developed.

- Will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district.
- Will not adversely affect an existing or potential water supply.

20. If this is an application for a Comprehensive Permit, see the attached rules.

21. Filing Fee:

- Changes to single family dwelling, where the unit will remain a single-family dwelling. - \$200
- Commercial and revenue generating property - \$300
- Administrative Appeal - \$200
- Comprehensive Permit – \$1000
- All petitions require a fee of \$1.00 x the number of abutters as shown on the Certified Abutter's List plus \$1.00 x the number of attorney representing the petitioner.
- All petitioners will be required to pay for the legal ad required under MGL 40A. This bill may be sent to the applicant directly from Community Newspapers or may come from the Town of Hudson.
- All expenses for advertising, engineering review, legal review, professional planning review, construction inspection, recording and filing of plans and documents, and all other expenses in connection with application for petitions shall be borne by the applicant.
- This regulation is adopted pursuant to MGL Chapter 44 Section 53G and appeals to fees charges hereunder shall be made to the Board of Selectmen in accordance with the provisions of said statute.

22. You may include any additional exhibits or information you feel may be helpful to your Petition. The Board may request additional information at the time of the public hearing.

23. All parties filing the Petition or their attorney must sign the Petition.

COMMONWEALTH OF MASSACHUSETTS  
TOWN OF HUDSON

, 20

TO THE BOARD OF APPEALS

The undersigned hereby petitions the Board of Appeals to vary the terms of the Zoning By-Laws of the Town of Hudson at premises located at \_\_\_\_\_ in the \_\_\_\_\_ Zoning District by granting a (n) \_\_\_\_\_ Pursuant to section \_\_\_\_\_ of the Town of Hudson Zoning By-Laws.

Or any limitation, extension, change, alteration or modification of use, or method of use as may at hearing appear as necessary or proper in the premises.

State Briefly Reasons for Application and Other Pertinent Information

Petitioner \_\_\_\_\_

By \_\_\_\_\_

Address \_\_\_\_\_

Phone No. \_\_\_\_\_

## Comprehensive Permit Rules of the Zoning Board of Appeals

### Section

- 1.00 Purpose and Context
- 2.00 Definitions
- 3.00 Filing, Time Limits, and Notice
- 4.00 Review of Applications and Review Fee
- 5.00 Public Hearing and Decision
- 6.00 Appeals

#### 1.00: Purpose and Context

These rules establish procedures for applications to the zoning board of appeals for comprehensive permits granted under the Anti-Snob Zoning Act (Chapter 774 of the Acts of 1969), M.G.L. c. 40B, §§ 20-23. They are required by M.G.L. c. 40B, § 21, as amended by Stat. 1989, c. 593, and by 760 CMR 31.02. The purpose of that act and these rules is to facilitate the development of affordable housing in Massachusetts. Further explanation of the background and purpose is provided in the regulations of the Housing Appeals Committee, 760 CMR 30.01.

These rules alone are not sufficient to describe comprehensive permit procedures before the zoning board of appeals. They must be read in conjunction with and implemented in a manner consistent with the complete regulations of the Housing Appeals Committee, 760 CMR 30.00 and 31.00 and with the Guidelines for Local Review of Comprehensive Permits, published periodically by the Department of Housing and Community Development. In addition, the Board's general rules for conduct of hearings under M.G.L. c. 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general rules for conduct and these rules, these rules shall govern.

2.00: **Definitions** (a) Board means the zoning board of appeals established under M.G.L. c. 40A, § 12.

(b) *Local board* means any local board or official, including, but not limited to any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; city council or board of selectmen. All boards, regardless of their geographical jurisdiction or their source of authority (that is, including boards created by special acts of the legislature or by other legislative action) shall be deemed local boards if they perform functions usually performed by locally created boards.

#### 3.00: Filing, Time Limits, and Notice

3.01: The application for a comprehensive permit shall consist of: (see footnote 2)

(a) 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; and proposed landscaping improvements and open areas within the site. All structures must have site development plans signed by a professional engineer;

(b) a report on 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 and character of open areas, if any, in the neighborhood. This submission may be combined with that required in section 3.01 (a), above;

(c) preliminary, scaled, architectural drawings, For each building the drawings shall be signed by a registered architect, and shall include typical floor plans, typical elevations, and sections, and shall identify construction type and exterior finish;

(d) a tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas;

(e) where a subdivision of land is involved, a preliminary subdivision plan;

(f) a preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants;

(g) documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01, that is,

(i) the applicant shall be a public agency, a non-profit organization, or a limited dividend organization,

(H) the project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program (see footnote 3), and

(iii) the applicant shall control the site;

(h) a list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations.

3.02: The application shall be accompanied by a filing fee of \$1000.00.

3.03: Within seven days of filing of the application, the Board shall notify each local official of the application by sending such official a copy of the list required by § 3.01 (h), above. Based upon that list, it shall also, within the same seven days, invite the participation of each local official who has a substantial interest in the application by providing such official with a copy of the entire application. (see footnote 5)

#### 4.00: **Review Fees**

4.01: If, after receiving an application, the Board determines that in order to review that application it requires technical advice unavailable from municipal employees, it may employ outside consultants. Whenever possible it shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of part or all of consultant fees by the applicant. Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the Board alone.

4.02: A review fee may be imposed only if:

(a) the work of the consultant consists of review of studies prepared on behalf of the applicant, and not of independent studies on behalf of the Board,

(b) the work is in connection with the applicant's specific project, and

(c) all written results and reports are made part of the record before the board.

4.03: A review fee may be imposed only after the Board has complied with the Uniform Procurement Act, M.G.L. c. 30B, §§ 1-19, as amended, and any additional requirements as deemed appropriate by the Chief Procurement Officer.

4.04: All fees assessed pursuant to this section shall be reasonable in light of:

(a) the complexity of the proposed project as a whole,

(b) the complexity of particular technical issues,

(c) the number of housing units proposed,

(d) the size and character of the site,

(e) the projected construction costs, and

(f) fees charged by similar consultants in the area.

As a general rule, the Board will not assess any fee greater than the amount that might be appropriated from town or city funds to review a similar town or city project.

4.05- Any invitation for bids or request for proposals 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 days of receiving written notification of selection of a bidder or offeror, the Board may deny the comprehensive permit.(see footnote 6)

4.06: Prior to paying the review fee, the applicant may appeal the selection of the consultant to the city council or board of selectmen. (a) 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.

(b) The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field.

(c) The required time limits for action upon the application by the Board shall be extended by the duration of the appeal. In the event that no decision is made by the city council or board of selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

4.07: Each review fee shall be deposited in a special account established by the municipal treasurer pursuant to M.G. L. c. 44, § 53G. (a) Funds from the special account may be expended only for the purposes described in section 4.02, above, and in compliance with the Uniform Procurement Act, M.G.L. c. 30B, §§ 1-19.

(b) Within 30 days of the completion of the project or of such time as the applicant formally withdraws the proposal, the applicant shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest.

(c) The municipal accountant shall submit annually a report of the special account to the chief elected body and chief administrative official of the municipality for their review. This report shall be published in the city or town annual report.

#### **5.00: Public Hearing and Decision**

5.01: The Board shall hold a public hearing on the application within thirty days of its receipt. It may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.

5.02: The Board shall render a decision, based on a majority vote of the Board, within forty days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received and all information requested by the Board has been received.

5.03: The Board may dispose of the application in the following manner- (see footnote 7) (a) approve a comprehensive permit on the terms and conditions set forth in the application, (b) deny a comprehensive permit as not consistent with local needs, or

(c) approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials that do not render the construction or operation of such housing uneconomic.

#### **6.00: Appeals**

6.01: 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, § 17.

6.02: If the Board denies the comprehensive permit or approves the permit with unacceptable conditions or requirements, the applicant may appeal to the Housing

Appeals Committee as provided in M.G.L. c. 40B, § 22.

1. These model rules have been prepared by the Massachusetts Housing Appeals Committee, Executive Office of Communities and Development, to assist local zoning boards of appeals.

2. These requirements are restated from 760 CMR 31.02(2).

3. Local Initiative proposals eligible for comprehensive permits pursuant to 760 CIVIR 45.04 also satisfy this jurisdictional requirement.

4. The amounts in this section of the Model Local Rules are purely advisory. The board may adopt a fee schedule based upon an entirely different approach, using higher or lower amounts, or it may choose not to assess any filing fee. The most important consideration should be that any fee approach adopted be consistent with fees assessed elsewhere in town or city government. In particular, the fee schedule should be consistent with any subdivision or cluster zoning fees, taking

into consideration that comprehensive permit fees should be reduced to encourage affordable housing development. Also see Guidelines for Local Review of Comprehensive Permits, p. 15.

5. The provisions of this section are not literally consistent with M.G.L., c. 406, s. 21, sentence two. This section is a practical and necessary administrative interpretation of the statutory provision by the Housing Appeals Committee. It is permitted under the Supreme Judicial Court's doctrine of administrative interpretation stated in Levy v. Bd. of Registration and Discipline in Medicine, 378 Mass. 519, 392 N.E.2d 1036 (1979) and Grocery Mfgs. of America v. Dept. of Public Health, 379 Mass. 70, 393, N.E.2d 881 (1979).

6. The Board will select the consultant after reviewing both the bid or proposal and any comments received from the applicant pursuant to rule 4.03(c)(iii), but it normally will not formally award the contract until the review fee has been paid.

7. Boards of appeals have found that it is most useful to enter into the hearing and decision drafting process assuming that a comprehensive permit will be approved. In that case, if there are significant local health, safety, environmental, or planning concerns, it can focus its attention on drafting conditions to address those concerns. Only if it ultimately finds that there are no conditions that will adequately address the concerns should it deny the permit.

#### **FOOTNOTE SECTION:**

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The original adoption of these Regulations was on August 28, 1986, amended March 26, 1987, September 12, 1989, June 11, 1992, March 11, 1993, June 10, 1993, August 17, 1995, September 20, 2000, August 10, 2001 and May 12, 2005.