



**Town of Templeton
Zoning Board of Appeals**

P.O. Box 620
E. Templeton MA 01438
978-894-2771

Email: iwiita@TempletonMA.gov

PROCESS FOR SEEKING A VARIANCE (MGL c. 40A, s.10)

1. The Zoning Board of Appeals has the power to grant a variance from the Templeton Zoning Bylaws under certain and specific circumstances. These circumstances include soil conditions, shape of the lot, and/or topography of your land. These conditions must be unique to your property and not the conditions found generally in the zoning district in which your land is located. The Building Commissioner/Zoning Enforcement Officer will issue a letter of denial that will state the reason(s) that your project is not in compliance with the Templeton Zoning Bylaws. The board is only authorized to grant dimensional variances and not use variances.
2. The board must be able to determine that owing to these unique conditions on your property, an enforcement of the zoning bylaw would involve substantial hardship, financial or otherwise to you the petitioner. Since the law is specific to the circumstances under which the board is legally authorized to grant a variance, you will have to provide enough evidence to prove your claim that development of your property in strict conformity with the zoning bylaws will involve substantial hardship to you. Evidence should include soil information, topographic contours and/or surveys/sketches of the configuration of your lot. You must be able to demonstrate that these conditions are unique to your lot and not those of most of the properties in your zoning district; the burden of proof is on you. The Zoning Board is under no obligation to grant a variance to anyone; be certain to include all your evidence with your application.
3. The board must further determine that if they grant you the relief you are seeking, that relief will not cause substantial detriment to the public good and will be harmony with the rest of the neighborhood and it will not nullify or substantially derogate from the intent or purpose of the zoning bylaw.
4. Once you have satisfied the requirements of MGL c. 40A, s. 10, you will need fill out an application which can be found on the TempletonMA.gov website under Zoning Board of Appeals, and obtain an abutters list from the Assessor's Office, Room 3, 160 Patriots Road, E. Templeton. Once the application is complete, return it along with the required paperwork to the Development Services Office with a check payable to the Town of Templeton for the appropriate filing fee; office hours are Monday 7:30 am – 6:30 pm, Tuesday through Thursday 7:30 am – 4:30 pm, closed Friday. The application will be reviewed by the Development Services Office for completeness and provided to the office of the Town Clerk.
5. The board must hold a public hearing on your petition within sixty-five (65) days from the acceptance of the application; you will be notified of the date and time of the public hearing by receiving a copy of the notice by certified mail. This notice will also be mailed to all abutters to your property and a legal ad will be placed in the Gardner News fourteen (14) and seven (7) days prior to the public hearing date, you will be responsible for the cost of the ad and certified mail.



6. The public hearing will be your opportunity to convince the board that you require and qualify for a variance for your proposed project; it is also an opportunity for the abutters to comment on your request.

7. The board may impose conditions, safeguards and limitations on your request if granted for both time and use; including the continued existence of any structure(s), but they may not place any conditions, safeguards or limitations based on the continued ownership of the land or structure(s) to which the request pertains by the applicant, petitioner or any owner.

8. When the board feels that it has enough information to make findings, it will close the public hearing and come to a decision on the request; the board has one hundred (100) days from the date of acceptance of your request to render a decision. The board cannot grant the variance unless they find that all of the conditions as described have been met. The concurring vote of four (4) members is required to grant a variance under MGL c. 40A, s. 15.

9. The board must then make a detailed record of its proceedings, indication of the vote of each member and the reason(s) for its decision or of its official actions. This document must be filed with the Town Clerk within fourteen (14) days of the date of their decision, where it will become a public record; you will receive the original decision with a date stamped by the Town Clerk via certified mail.

10. Should you or any other interested party be dissatisfied with the decision, parties will have twenty (20) days from the date of the board's decision filing with the Town Clerk to appeal to superior court department in which the land is situated, or to the division of the district court department within the jurisdiction the land is situated (per MGL c. 40A, s. 17 for guidance on the appeal process).

11. If there is no appeal of the board's decision taken within the twenty (20) day appeal period, you will receive, upon request, a notice of "no appeal" from the Town Clerk. This notice and the decision are to be recorded at your expense in the Worcester County Registry of Deeds. The decision must be recorded in order for the variance to be effective; the registry will only record an original document; **you must bring the recorded variance to the Building Department, Room 4 to get the proper permit.**

12. If your variance is granted you will have one (1) year to exercise the rights authorized by it; the board may extend the time limit up to six (6) months. You must apply for this extension in writing to the board stating the reason for the extension prior to the expiration date of your variance. If the board does not provide a decision to your extension request within thirty (30) days from the date of receipt, and upon expiration of the original one (1) year period, your variance may be re-established only after notice and a new hearing pursuant to the provisions of MGL c. 40A, s. 10.

