

Town of Rowley

Massachusetts

Zoning Board of Appeals

INSTRUCTIONS FOR APPLICANTS FILING TO APPEAR BEFORE THE ROWLEY ZONING BOARD OF APPEALS

Note: The following instructions apply to parties (i) appealing a decision of the Building Inspector/Zoning Administrator, (ii) seeking a special permit from the Zoning Board of Appeals, or (iii) seeking a variance. Developers filing an application for a comprehensive permit under M.G.L. chapter 40B should refer to the Comprehensive Permit Rules of the Zoning Board of Appeals for instructions and a detailed list of required submissions.

A. Required Submissions to the Zoning Board of Appeals

1. Application. The Applicant must complete the Application attached to these instructions and have it stamped by the Town Clerk. The Applicant must submit the one (1) original and 11 copies (for a total of 12) of the stamped Application to the Administrative Assistant to the Zoning Board of Appeals. The Applicant should retain a copy of the Application and other submissions for himself.

If the Application is incomplete or is not accompanied by the required items described below, it will not be accepted by the Administrative Assistant to the Zoning Board of Appeals or will be returned by the Board. Therefore, we recommend that you have the Administrative Assistant review the Application and confirm that it is complete prior to having it stamped by the Town Clerk.

2. Certified List of Parties-In-Interest and Assessors Map. The Applicant must obtain from the Rowley Board of Assessors (and if the property abuts another town, from the Board of Assessors of the other town) a certified list of parties-in-interest, including names, mailing addresses, map, block and lot numbers and a copy of the Assessors Map. Parties-in-interest are the Applicant, property owner (if other than the Applicant), direct abutters, owners of land directly opposite on any public or private street or way, and abutters to the direct abutters within three hundred feet of the property in question.
3. Certified Plot Plan/Construction Plans. The Applicant must provide to the Administrative Assistant to the Zoning Board of Appeals 12 copies of a certified plot plan which accurately shows the relevant property line locations, existing building locations and, if any, the proposed alterations to those existing conditions. The plot plan must be certified by a registered civil engineer or registered land surveyor and meet the following requirements:

- Drawn to a scale of not less than one inch equals one hundred feet (1"=100')—but preferably one inch equals forty feet (1"=40')
- Shown on sheets of paper not larger than 11"x17"
- Have a directional arrow showing north
- Shall not be older than one year
- Shall contain any further details necessary to give a picture of the area in question, for instance frontage, setbacks, building height, access and the like, to the extent relevant. If in doubt, it is better to be overinclusive in preparing the plot plan. Otherwise, you run the risk of having to provide a revised plot plan if the Board feels the original does not provide sufficient information to allow them to make a decision.

In addition to the plot plan, 12 copies of construction plans are required if the Application concerns a proposed building or an existing building to which changes or additions are proposed. The construction plans must include front, side and rear elevation drawings and show entrances and exits, windows and other pertinent features, both existing and proposed.

4. Filing Fee. The Applicant shall submit to the Administrative Assistant to the Zoning Board of Appeals the non-refundable Filing Fee of Two Hundred Fifty (\$250) Dollars. The payment shall be in the form of a check or money order payable to the Town of Rowley. The Filing Fee shall be increased by One (\$1.00) Dollar for each party on the certified list of parties-in-interest in excess of twenty-five (25).

In the event the Board deems a filed Application or plan(s) inadequate for proper understanding of the matter, the Applicant shall be given the opportunity to submit additional information or make revisions. If the Board determines that the Application or plans require the review of an engineer, surveyor or other such professional, the Board shall notify the Applicant who shall have the option of paying for the services of the required professional or withdrawing the Application, with or without prejudice at the Board's discretion.

The Applicant may request that the Board waive certain of the above required deliveries. The Applicant shall make any such request in writing explaining the reasons why it should be entitled to a waiver. A majority of the Board may vote to grant such a waiver.

THE APPLICATION WILL BE REJECTED OR RETURNED TO YOU IF THE APPLICATION IS INCOMPLETE, IF THE REQUIRED PLANS ARE NOT PROVIDED OR ARE INCOMPLETE, OR IF ANY OF THE OTHER REQUIREMENTS LISTED ABOVE ARE NOT FULLY SATISFIED.

B. Requesting the Proper Form of Zoning Relief

1. Variance. A variance is an authorization from the Zoning Board of Appeals to do something that exceeds the limits set forth in the Zoning Bylaw—for instance, constructing a building that exceeds the height limitation or building on a lot with less than the required frontage. Before you apply for a variance, the Rowley Zoning

Board of Appeals suggests that you familiarize yourself with the requirements of Massachusetts General Laws chapter 40A, Section 10. This law states that a Zoning Board of Appeals can grant a variance only if the Applicant demonstrates **ALL** of the following:

- A substantial hardship, financial or otherwise, will be suffered if the variance is not granted
- Special conditions affect the land in question as compared to other properties within the zoning district
- The special conditions relate to the soil conditions, shape or topography of the land or structures
- Granting the variance will not cause substantial detriment to the public good
- Granting the variance will not nullify or substantially derogate from the intent or purpose of the zoning by-law

Massachusetts courts have stated that a variance is a disfavored form of relief and should be granted sparingly—accordingly, it is generally advisable for an Applicant to seek a special permit instead of a variance where possible. If any of the above requirements are not satisfied, the Board must deny the request for a variance. If all are satisfied, granting the variance is at the Board's discretion. Please note, the Zoning By Law of the Town of Rowley does not authorize the Zoning Board of Appeals to grant **use** variances so no Application seeking a **use** variance will be accepted.

2. Special Permit. If your Application is for a special permit, be prepared to present information showing that the benefits of the proposed use outweigh any adverse impacts of such use. Focus on the following:

- The social, economic or community needs that would be served by the proposed use
- The impact of the proposed use on public health and safety
- The impact of the proposed use on the character and natural environment of the Town
- The compatibility of proposed structures with the character, scale and design of existing buildings and structures in the neighborhood
- The impact of the proposed use on adjacent properties

The Zoning By Law currently authorizes the Zoning Board of Appeals to grant special permits pursuant to the following sections:

- 4.8.1(f) allowing uses accessory to permitted scientific research or scientific development use
- 4.11.3.2. allowing certain uses in a Municipal Watershed Protection District (Site Plan Review by the ZBA is also required per 4.11.4.1)
- 5.2.1. expansion or change of a non-conforming use, if Board makes a *finding* that the use will not be substantially more detrimental

- 5.4.1. allowing certain changes to a non-conforming single family residence *without* a public hearing
 - 5.4.2. allowing certain changes to a non-conforming single family residence *with* a public hearing
 - 6.1.3.1. exceptions to setback requirements
 - 6.3.1.3. exceptions to lot area for conversion to multi-family dwelling
 - 6.6.2. creation of Accessory In-Law Apartments
3. Party Aggrieved. If your Application is as a party aggrieved by a decision of the Building Inspector/Zoning Administrator, be prepared to present evidence supporting your claim. This can take the form of written statements, photos, cites to legal cases, plans, studies, reports or any other relevant materials.

C. Hearings/Decisions of the Board

1. Hearings of the Zoning Board of Appeals are typically (but not always) held on the third Thursday of each month at the Town Hall Annex at 39 Central Street starting at 7:00 P.M. Notices stating the specific date and time of your hearing will be published in a newspaper of general circulation, posted in the Town Hall, and mailed to the Applicant and all other parties-in-interest.
2. The Applicant or his representative must appear and present the Application at the public hearing. The Applicant may present supplemental materials, plans, studies, petitions, expert witnesses or other materials in support of the Application. Other interested parties in favor or opposed may do the same. The scope and time allocated to presentations, comments and supplemental materials shall be determined by the Chairman of the Zoning Board of Appeals.
3. Decisions made by the Board are filed with the Town Clerk after being written and approved by all required Board members. Once filed with the Town Clerk, a copy of the decision is mailed to the Applicant. Parties-in-interest are also notified of the Board's decision at this time. The twenty (20) day appeal period begins on the date that the decision is filed with the Town Clerk.
4. The Applicant shall be responsible for recording the decision and accompanying plans, if necessary, at the Essex (South District) Registry of Deeds in Salem. No variance or special permit shall take effect until the decision is recorded at said Registry.

If you have any questions regarding these instructions, you can visit the office of the Zoning Board of Appeals at the Town Hall Annex at 39 Central Street during office hours. Also, you can contact us at 978-948-2657. If no one answers, leave a message and the Administrative Assistant to the Board or a member of the Board will return your call promptly.

Zoning Board of Appeals
Donald W. Thurston, Chairman

APPLICATION TO THE ROWLEY ZONING BOARD OF APPEALS	For ZBA Use Only
	Date of Acceptance by the ZBA: _____ ZBA Case No. _____ Public Hearing Date: _____

1. Applicant(s): _____
Mailing Address: _____
Telephone Number: _____

2. Ownership:
a. Name and address of owner (if joint ownership, give all names):

b. If applicant is not owner, check interest in the premises:
Prospective Purchaser ___ Lessee ___ Other ___ (explain)

3. Application is hereby made: (check all that apply)
- a. For a variance from the requirements of Section(s) _____ of the Rowley Protective Zoning Bylaw.
 - b. For a special permit under Section(s) _____ of the Rowley Protective Zoning Bylaw.
 - c. As a party aggrieved, for review of a decision made by the Building Inspector/ Zoning Administrator. (attach decision)
 - d. For a comprehensive permit under M.G.L. ch. 40B for _____ (#) rental/ownership (circle one) units.
 - e. Other (explain below).

4. a. Premises affected are land and building(s), if any, numbered _____ Street/Road.
- b. Rowley Assessor's Map No. _____ Block No. _____ Lot No. _____
- c. Premises affected are in Zoning District (check one):
 Central _____ Residential _____ Coastal Conservation _____
 Outlying _____ Retail _____ Business/Light Industrial _____
- d. Premises affected are in Overlay District (check one): None _____
 Municipal Water Supply _____ Flood Plain and Watershed _____
- e. Deed is recorded in the Essex (South District) Registry of Deeds at Book _____,
 Page _____ -OR- Deed is filed with the Essex Registry District of the Land Court as
 Document No. _____, Book _____, Page _____.
5. Has a variance, special permit or other zoning relief ever been requested for the
 premises? Yes _____ No _____ If yes, attach copy of decision.
6. Description of the proposed work and/or use:
7. The reasons for the request are as follows: (Use additional sheet if necessary)

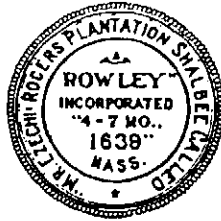
 Date

 Signature of Applicant

Prior to submitting this Application, review "Instructions for Applicants Filing to Appear Before the Rowley Zoning Board of Appeals" attached hereto.

Only exact copies of this form are accepted. No alterations are permitted. Any alterations render this form null and void.

(Form Revised January 2005)



Town of Rowley

Massachusetts 01969

Board of Selectmen

(508) 948-2372

Permit/License Clearance Form

Pursuant to the acceptance of Chapter 40 Article 57 of the Massachusetts General Laws through the approval of Article 54 of the Annual Town Meeting of May 4, 1987 (Attorney General Approved August 18, 1987).

Owner and/or Applicant: _____

Application for: _____

Street address: _____

Assessors' Map# _____ Parcel# _____

Prior to the issuance of any Permit/License, the applicant for said Permit/License must obtain sign-offs from the following:

Treasurer/Collector: _____ date _____

Water Department: _____ date _____

Municipal Light Dept.: _____ date _____

