

**Town of Dedham
450 Washington Street
Dedham, MA 02026**

**Zoning Board of Appeals
Rules & Regulations**



Members

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INTRODUCTION

Pursuant to the provisions of Massachusetts General Law Chapter 40A, 40B, and 41 and the Dedham Zoning Bylaw, the Town of Dedham Zoning Board of Appeals (ZBA) shall have the authority to hear and decide petitions for Special Permits, Variances, Appeals, Repetitive Petitions, and Comprehensive Permits (40B). The rules and regulations of the Zoning Board of Appeals are in accordance with the General Laws of the Commonwealth.

[Massachusetts General Law Chapter 40A](#)

[Massachusetts General Law Chapter 40B](#)

Applicants must also comply with any and all other requirements and procedures set forth in the Town of Dedham Zoning Bylaw. Copies of the Bylaws are available to print/download by following the link: <https://bit.ly/DedhamZoningBylaws>

If additional guidance is needed, an attorney, engineer, architect, registered land surveyor or other appropriate professional may be consulted.

Please refer to the attached information and instructions when completing this application. Applicants are advised to discuss with the Building Commissioner and/or Planning and Zoning Department for interpretations of the Zoning Bylaws prior to filing with the Board of Appeals. Information for the Dedham Zoning Board of Appeals can be found here: <https://www.dedham-ma.gov/government/zoning-board-of-appeals>

As needed, the ZBA will vote to establish rules and regulations for its own procedures consistent with the General Laws of the Commonwealth.

ORGANIZATION

Members and Officers

The ZBA has five members who serve for five-year terms, and two alternate positions held for a one-year term. The Board shall include five members, residents of Dedham, one of whom shall be an attorney at law, one a civil engineer, one an architect, structural or mechanical engineer, or a master builder, or a person with 10 or more years of experience in construction or supervision of construction of buildings. The Select Board shall annually in April appoint one member to the ZBA to serve for a term of five years commencing with the first day of May following, to succeed the member whose term will then expire.

The ZBA will annually elect its own officers. Those officers are Chair and Vice Chair.

The Chair shall preside at all public meetings of the Board. The Vice Chair may assume all duties of the Chair in the absence, inability to act, or conflict of interest on the part of the Chair.

Associate Members

Two Associate Members are appointed annually by the Select Board. Associate members may be invited by the Chair to sit as a voting member of the Board in case of absence, inability to act, seat vacancy, or conflict of interest.

Quorum

Four members of the ZBA constitutes a quorum. No member may vote on an application in which they have financial interest or another conflict of interest pursuant to the General Laws of the Commonwealth.

Resignations

If a regular member or associate member resigns from the Board, the resignation will be submitted in writing to the Select Board Chair and a copy will be provided to the Town Clerk. The resignation may specify a future effective date to allow completion of any pending cases in which the member has participated.

MEETINGS

Regular Meetings

The Town of Dedham ZBA meets at 7:00 p.m. on the third Wednesday of each month. Meetings are held in person at 450 Washington Street. Meeting notices and agendas are posted in Town Hall outside the Town Clerk's office. Meeting dates, submission due dates, and other information can be found on the ZBA website:

<https://www.dedham-ma.gov/government/zoning-board-of-appeals>

In addition, each meeting is posted on the Town of Dedham website: <https://bit.ly/DedhamTownCalendar> Residents may also be notified of meetings electronically by subscribing to the Town's email notifications: <https://bit.ly/DedhamTownNotifications>

Special Meetings

Special meetings may be called by the Chair or at the request of two members. These are posted as noted above.

Open Meeting Law

All meetings of the Zoning Board of Appeals are subject to and must comply with the Open Meeting Laws: <http://www.mass.gov/the-open-meeting-law>

Representation and Absence

An applicant may appear on their own behalf or be represented by an agent or attorney. In the absence of appearance with or without written explanation by the applicant or petitioner, the Board will issue a decision on the application it has received, vote unanimously to continue the hearing, or decide by unanimous vote that the application be denied. At least one representative should be present on behalf of each application.

Peer Reviews

For any application or petition, the Board may request the services of an outside Consultant to conduct a peer review if qualified Town resources are not available or if there is a need for a specified review by a qualified expert in the field. The Board will determine the scope of the peer review, including the report and presentation to the Board. Per the state statute, the applicant is required to pay for these services.

Site Visits

Board members and/or administrative staff may individually conduct a site visit to a subject property, including public access to the property but not within any residence or building. The applicant should allow such inspection and any refusal may result in Board denial of the application until a site visit is completed. If the applicant is not the owner of the property that is the subject of the appeal, the applicant and Board will work in good faith to secure access to the property for the site visit. In the event of a scheduled site visit, no deliberations or decisions shall be made by the Board on such site visit that would conflict with the provisions of the Open Meeting Law.

APPLICATION SUBMISSION

1. Applications for hearings are available on the Town website or by following this link:
<https://bit.ly/ZBAApplicationForms>

Materials are also available in the Planning and Zoning Department, or by contacting the Planning and Zoning Department at 781-751-9240.

2. A property owner, agent, or prospective buyer who submits certification of property interest and authority may file an application for a Special Permit, Variance, and/or Appeal. The property owner of record must sign the official ZBA application form or provide as a separate attachment. An application submitted without the signature of the property owner will be returned for completion and re-filing, and the date of re-filing. Failure to meet any of the application requirements may constitute grounds for rejection of an application by the ZBA.
3. The Applicant is responsible for providing the application, as well as a written petition statement that clearly and concisely explains the proposed project, using supplemental materials (maps, photographs of the area, and any other documentation) to explain the project.

The Applicant is responsible for completing the application in full, including citing the section of the Zoning Bylaw to which the petition pertains. Applicants are encouraged to discuss any questions prior to filing with the Planning and Zoning Department.

4. The submission must include eight (8) hard copies of the application, petition statement, plans, exhibits, renderings, or any other attachments, and one (1) digital copy of all materials. Submission should be made to the Planning and Zoning Department Office Manager. The electronic copy (pdf) of the entire submission should be e-mailed to the Planning and Zoning office at k Leahy@dedham-ma.gov.
5. The Planning & Zoning Department reviews all applications upon submission. The Department will file a copy of the ZBA application with the Town Clerk after submission.

TYPES OF APPLICATIONS

Special Permits – Applications for Special Permits, as defined under [G.L. c.40A, s.6](#), [G.L. c.40A, s.9](#), and the Town of Dedham Zoning Bylaw, may be issued only for uses or structures which are in harmony with the general purpose and intent of the Bylaw.

The Board shall hold a Public Hearing for which notice has been given on any application for a Special Permit within 65 days from the date of filing such application. The decision of the Board shall be made within 90 days following a public hearing for which notice has been given. The Board may impose conditions, safeguards and limitations on time or use of any structure or use for which a special permit is sought.

Substantial use or construction authorized by Special Permits must commence within three years of filing of the decision with the Town Clerk.

Variances – Applications for variances from the terms of the Zoning Bylaw dealing with particular aspects of land or structures may be submitted to the Board pursuant to [G.L. c.40A, s.10](#) and [Section 280-9.2](#) of the Zoning Bylaw. Use variances are not permitted in Dedham. A grant of a variance requires the Board to make specific affirmative findings as found in [G.L. c.40A, s.10](#). The Board may impose conditions, safeguards and limitations on time or use of any structure or use for which a variance is sought.

The Board shall hold a public hearing for which notice has been given on any application for a variance, or amendment of an existing variance, within 65 days from the date of filing such application. The decision of the Board shall be made within 100 days from the date of filing the application with the Town Clerk.

If the rights authorized by a variance are not exercised within one year of the date of such grant, the variance or amendment shall lapse and may be re-established only after notice and a new public hearing, or after any extension permitted by statute.

Appeals of an Order or Decision of the Building Commissioner – Pursuant to [G.L. c.40A, s.8](#) and [Section 280-9.2](#) of the Zoning Bylaw, the Board of Appeals may receive the following appeals from:

- A person aggrieved by an inability to obtain a permit from the Building Commissioner;
- A person aggrieved by enforcement action, or lack thereof, from the Building Commissioner; and
- The regional planning agency, an officer or board of the Town or of an abutting town aggrieved by an order or decision of the Building Commissioner or Town official perceived to be in violation of the Zoning Bylaw.

Comprehensive Permits – Pursuant to [G.L. c. 40B s.20](#), any public agency or limited dividend or nonprofit organization proposing to build low/moderate-income housing may submit a single application to the Board of Appeals in lieu of separate applications to other applicable Boards such as the Town Council, Conservation Commission or the Planning Board. The Board of Appeals shall notify each local Board or agency of the application by transmitting a copy of the comprehensive permit application for review and recommendation. The Board shall request the appearance of other Board representatives as are deemed necessary or helpful and shall take into consideration their recommendations in making its decision.

APPLICATION REQUIREMENTS

1. **Application for Hearing:** The applicant must fill in all applicable information and ensure representation at the Board meeting during which the application will be heard.
2. **Certified Plot Plan:** The certified plot plan produced by a Massachusetts Registered Land Surveyor should contain:
 - Property address, map and lot number, zoning district, and overlay districts
 - Location of lot lines, dimensions of lot, and frontage
 - Established zoning setback requirements
 - Locations and dimensions of primary and accessory structures, both existing and Proposed
 - Proximity to wetlands
 - Locations of public easements
3. **Building Plans (if applicable):** The building plans should be on 11" x 17" sheet, and contain:
 - Existing and proposed exterior elevations to include front, rear, and side elevations
 - Existing and proposed floor plans
 - Average height of the building, both existing and proposed
4. **Eight (8) hard copies and one (1) electronic copy** of the official application form, all plans, exhibits, and any other information and/or attachments to the petition.
5. **Photographs:** Photographs of existing conditions are encouraged with the submittal.
6. A petition form is included in the application as a courtesy to the Applicant. It is highly recommended that the Applicant communicate with abutters to explain the proposal and, if possible, obtain their signature in support. This is a suggestion, not a requirement.

FEES

Application Fee

Application fees are due and payable at the time of filing of the application. Failure to do so will result in rejection of the application. Payment may be made by check. Any other form of payment is not currently accepted.

Residential: \$150.00

Non-Residential: \$300.00

Comprehensive Permit: \$3,000 (plus additional \$100 per unit)

Review Fee

In very rare cases, it is necessary for the Board to hire consultants in connection with the review and evaluation of an application. Per state statute, the Applicant is required to pay the costs incurred by the Board for these services. Consultants will bill the Applicant separately for any review.

Legal Advertisement Fee

Each Zoning Board of Appeals petition requires a public hearing. According to [Massachusetts General Law Chapter 40A Section 11](#):

“In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing...”

In order to comply with this section, the Town of Dedham places legal ads for all public hearings in *The Dedham Times*, which bills the Applicant separately. A form is included in the application that requests publication of the legal notice for the hearing. Only one copy of this form is needed in the submission.

Fees are established by *The Dedham Times*, not the Town of Dedham. Payment for these ads is the responsibility of the Applicant. For information on billing, please contact *The Dedham Times* at 781-492-4564 or by e-mail at dtimes@rcn.com.

CERTIFIED ABUTTER LIST AND NOTIFICATIONS

[Massachusetts General Law Chapter 40A, Section 11](#), requires notification of the hearing to parties in interest. A list must be created and certified by the Town of Dedham Assessor's office. Parties in Interest are defined in as:

- Applicant
- Abutters: Owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property lines of the subject property as they appear on the most recent applicable tax list. This includes applicable abutters in other towns.
- Planning Boards of abutting communities (Boston, Needham, Canton, and Westwood).

A request form for the certified abutter list is included in the application. Only one copy of this form is needed in the submission.

As part of the application fee, Planning and Zoning Department staff will obtain the certified abutters list from the Assessor's office, create the legal notice, and mail copies of the notice to the Parties in Interest.

PUBLIC HEARINGS

All Public Hearings shall be conducted in accordance with the requirements of Massachusetts General Law Chapter 40A, Section 11. All public hearings are recorded as required by Public Records Law, from which the minutes are produced and decisions are written. All minutes are posted on the Town website and can be viewed by visiting: <https://bit.ly/DedhamZBAMeetingMinutes>

Hearing

All hearings shall be open to the public. At the hearing, any party, whether entitled to notice thereof or not, may appear in person or by agent or attorney. No person shall be excluded unless deemed by the chair to be a serious hindrance to the proceeding of the hearing.

Applicant Representation

An applicant may appear on his own behalf or be represented by an agent or an attorney. The applicant shall authorize such representation by an agent in writing. In the event of absence of the appellant or his representative at a duly scheduled hearing, the Board may render a decision on the appeal using information submitted or otherwise received.

Hearing Procedure

The public hearing shall be held at the call of the chair, who shall describe the rules of procedure for the hearing and then read or direct the reading of the public hearing notice to open the public hearing. After the opening of the public hearing, the order of business will generally proceed as follows:

1. The chair shall read the Form of Appeal and present any materials received in response to the application.
2. Presentation by the applicant, which may be limited at the discretion of the chair. Each plan or other item used as part of the presentation shall be identified by its proper title and date. Each item shall be identified as either part of the application or a copy shall be provided for the file.
3. Questions or comments by the members of the Board. At the direction of the chair, responses shall be made by either Town staff or the applicant.
4. Questions or comments by staff assigned to the Board, followed by responses by the applicant.
5. Questions or comments by members of other Town Boards or Town staff. At the direction of the chair, responses shall be made by either Town staff or the applicant.
6. Questions by members of the public seeking information. Those in favor of the application shall speak first and then followed by those opposed. Persons wishing to be

heard must be recognized by the chair and must state their name and address prior to asking a question. At the direction of the chair, responses shall be made by either Town staff or the applicant.

7. Opponent's formal presentation, which may be limited at the discretion of the chair.
8. Applicant's rebuttal, which shall be restricted to matters raised by opponents.
9. ZBA members ask for any additional information needed to render a decision.
10. The chair, upon majority vote of the Board, continues the public hearing to a date, time and place certain that is announced at the public hearing or closes the public hearing if the Board feels they have received sufficient information to render a decision. Upon the close of a hearing, no additional information received by the Board may be used in the making of its decision.

Members of the Board hearing the case may, at any time, direct appropriate questions during the course of the hearing. All questions shall be directed through the chair.

Vote

At the close of the Public Hearing of each petition, the Board will deliberate. In most cases, a motion is made, seconded, and voted upon to either approve or deny a petition. This concludes the hearing. In some cases, it is decided that there more information is required, and the hearing is continued to a future meeting with mutual consent of the petitioners.

The affirmative vote of four (4) members of the five (5) member Board shall be required to authorize, issue, uphold, or reverse a Special Permit/Variance/Appeal. In the event that there are only three members present, the Applicant is given the opportunity to continue the hearing until there are sufficient members.

Denial/Repetitive Petitions

In order to have any petition or application that has been denied by the Board reconsidered, the Applicant must wait two years from the date of the decision before resubmitting the application. An Applicant may resubmit an application if the Board makes the determination that specific and material changes have been made to the conditions upon which the original decision was made pursuant to MGL Chapter 40A, Section 16.

For cases in which the Board has allowed the Applicant to withdraw without prejudice, the petitioner has the right to return to the Board with a new application at a future hearing.

Notification of Decision

A copy of the filed decision will be mailed to the Applicant. A notice of the filed decision will be mailed to the parties in interest, abutting towns, and to persons at the Public Hearing who request such a notice by the Planning and Zoning Department. Copies of the decision will also be sent as necessary to the Planning Board, Building Commissioner, Assessor's Office, Board of Health, and any other Board or Department involved in the original petition. The notices will specify that, pursuant to [Massachusetts General Law Chapter 40A, Section 27 Judicial Review](#), appeals, if any, should be filed within twenty (20) days after the date the decision was filed with the office of the Town Clerk.

AFTER THE HEARING

Any person aggrieved by the decision of the Board may appeal such decision pursuant to Massachusetts General Law Chapter 40A, Section 17 Judicial Review. Appeals, if any, should be filed within twenty (20) days after the date the decision was filed with the office of the Town Clerk.

Appeal Period

The appeal period, in which anyone may appeal the Zoning Board of Appeals decision, starts the day after the decision is filed with the Town Clerk, and lasts for twenty (20) days. In most cases, the Planning and Zoning Department will produce the ZBA's decision. Each member of the Board must approve and sign the decision before it is filed with the Town Clerk.

Any person aggrieved by the decision of the Board may appeal such decision pursuant to Massachusetts General Law Chapter 40A, Section 17 Judicial Review. Appeals, if any, should be filed within twenty (20) days after the date the decision was filed with the office of the Town Clerk.

If there is no appeal during the 20-day appeal period, the Applicant obtains a certificate of no appeals from the Town Clerk.

After the Hearing

In most cases the Planning and Zoning Department will produce the ZBA's decision. Each member of the Board must approve and sign the decision before it is filed with the Town Clerk. Once filed with the Town Clerk, the 20-day appeal period begins. If there is no appeal during the 20-day appeal period, the Applicant obtains a certificate of no appeals from the Town Clerk.

Recording the Decision and Obtaining Permits

The Applicant should obtain a letter from the Town Clerk certifying that the twenty (20) day appeal period has expired. This can be obtained the day after the appeal period ends. The decision must then be filed with the Norfolk County Registry of Deeds. Evidence of this filing must be provided to the Zoning Board of Appeals and Building Department. The Applicant is responsible for obtaining all necessary permits, licenses, rights and/or releases prior to commencement of the project.

Decision Lapse

If the rights authorized by a variance are not exercised within one year of the date of such grant, the variance shall lapse and may be re-established only after notice and a new public hearing, or after any extension permitted by statute.

If the rights authorized by a special are not exercised within three years of the date of such grant, the special permit shall lapse and may be re-established only after notice and a new public hearing, or after any extension permitted by statute.

Modifications After Decision

Prior to the time that the Board's decision is filed with Town Clerk, the Board retains jurisdiction to reconsider, revote, and remake its decision in accordance with its Rules and Regulations of the Zoning Bylaw.

After the decision has been filed with the Town Clerk, the Board has the power, without further public hearing, to correct an inadvertent or clerical error in its decision so that the record reflects the correct intention of the Board. Request from the applicant for modifications or changes to the language, terms or conditions of previously granted permits, or to the site plans or documents as part of a Board decision shall be heard at a public hearing unless the Board determines by unanimous vote in a public meeting that such modifications or changes: (1.) do not constitute a reversal of a conscious decision; (2.) do not grant relief different from that originally sought; (3.) do not change the result of the original decision; and (4.) do not prejudice anyone relying on the original decision. Such modifications or changes approved by a unanimous vote shall constitute an amendment to the original permit or decision.

MISCELLANEOUS PROVISIONS

Adoption of Rules

These Rules and Regulations shall become effective upon adoption by the Board and upon filing a copy thereof with the Town Clerk.

Amendment of Rules

These rules may be amended from time to time by a unanimous vote of the Board.

Waiver of Rules and Regulations

At any public hearing for an application, members may vote to waive any inconvenient rule or regulation for that application unless associated with the Town of Dedham Zoning Bylaw and/or Massachusetts General Law.

As approved by Zoning Board of Appeals on XX, 2023.



Scott Steeves, Chair



Sara Rosenthal, Vice Chair



Gregory Jacobsen



Jason Mammone



Thomas Ryan, Esq.

A handwritten signature in black ink, appearing to read 'Norman Vigil', written over a horizontal line.

Norman Vigil, Esq., Associate Member

Allen MacDuffie, Associate Member