TEWKSBURY ZONING BOARD OF APPEALS

999 WHIPPLE ROAD
TEWKSBURY, MA 01876
(978) 640-4370
Fax (978) 640-4365

CHECKLIST FOR ALL APPLICATIONS

All applicants applying to the Board of Appeals must include ALL of the following information.

1. **Applications:** Twelve (12) copies of the application are to be completed in full by the petitioner. An application must be filed for each individual property affected.

2. **Letter from the proper authority:** A letter indicating refusal of an appropriate permit from the Building Department. (Twelve (12) copies required.)

3. The Board will require every application, appeal and petition be supported by a **brief** which sets forth in detail all facts relied on. (Twelve (12) copies required.)

4. **Plans:** Twelve (12) copies of a certified plot plan, not older than six months and certification not broken, showing the premises affected, must be presented with the application. Any plan which is more than six months old must be certified by the maker that no changes have occurred and that the plan is still current.

5. Twelve (12) copies of a **plan showing the subdivision**, including surrounding lots. A locus should also be identified, i.e. copies of Assessor's maps indicating map & lot # are acceptable.

6. **Fee:** See attached fee schedule. This fee is not returnable and cannot be accepted without the complete application, including plot plans. The fee can only be accepted by check (either personal or certified). No cash will be accepted

7. **Advertisement:** The **applicant is required** to transmit and pay for the legal notice of the Public Hearing to the Tewksbury Town Crier Newspaper for publication for two **(2) successive weeks**, as well as to send the legal notice by certified mail return receipt requested to all names on the certified abutter's list. (This legal notice will be provided by the Zoning Board of Appeals' Office to you once the application packet is submitted.)

8. **Deed:** Twelve (12) copies of a Quitclaim Deed shall be submitted.

9. **Certified Abutters List:** The applicant shall provide a certified abutter's list of all abutters within 300 feet of the property line. The certification comes from the Assessor's Office located in the Town Hall Annex. (Twelve (12) copies required.)

10. **Two sets of envelopes:** One set for the hearing in which **legal abutters must be Certified Mail Return Receipt Requested** and abutters to the abutters can be regular mail. The second set of envelopes for the decision should all be regular postage. Two sets of the neighboring communities must also be notified be regular mail; see attached list. (Place postage on all envelopes and return address should be Zoning Board of Appeals, 999 Whipple Road, Tewksbury, MA 01876.)

11. If the owner is not the applicant, the application must be accompanied by a "notarized document" signed by the owner or owners authorizing the application. Any person may appear in his or her behalf or be represented by an agent or attorney-in-fact who may (but need not) be an attorney-at-law. If the representative of the owner or the applicant is not a licensed attorney-at-law, then a letter from the owner and/or the applicant must be filed authorizing the representative to act in behalf of the owner and/or applicant.

12. **Agent or applicant must sign application.**

13. **All material must be sorted into twelve (12) individual packets.**

INSTRUCTIONS TO FILL OUT APPLICATION

FIRST LINE -	Name and mailing address of person filing application.
SECTION 1 (a)	If the application is for a variance, check this box and fill in the applicable section and paragraph number as it appears in the letter of denial of building permit from the Building Commissioner.
SECTION 1 (b)	If application is for a Special Permit, check this box and fill in appropriate sections.
SECTION 1 (c)	If you are a party aggrieved, check this box indicating by underling the appropriate words and filling in the blanks for all authorities who have reviewed and rendered decisions on the matter concerning this application.
SECTION 2 -	If the application concerns only land which has no existing structure located thereon, check this box and fill in names of all streets on which the property abuts. Also, give any information which will help in locating the property.
SECTION 3 (a)	Indicate which Zoning District, as found in Tewksbury Zoning By-Law, the premises are located in. Fill in the area and frontage of the land in question. If the application concerns an existing or proposed structure, fill in the appropriate side yard setback on each side of said structure. (Side yard setback is the distance between the structure and the lot line to the side.) Also fill in the front yard setback. (The distance between the structure and the public way or street to the front.) If no structure is involved, put a dash in the spaces for side yard and front yard setbacks.
SECTION 3 (b)	Indicate by crossing out the appropriate words whether surveying markers (stone bounds) are present on the property.
SECTION 3 (c)	Premises affected are designated by Assessor's Map number and Lot number.
SECTION 4	Fill in the names and addresses of all owners of the property.
SECTION 5 (a)	If no structure is involved, go to Section 6. If a structure is involved, circle the appropriate word to indicate whether the building is existing or proposed and fill in the dimensions, the height in stories, and in feet. Also, fill in the total area of the structure.
SECTION 5 (b)	Fill in the appropriate date of erection, if existing.
SECTION 5 (c)	Indicate what use the structure is there for.
SECTION 6	Describe the work which is to be performed and what use it will be put to. Use separate sheet if necessary.
SECTION 7	Self-explanatory.
SECTION 8	Self-explanatory.,

SECTION 9 From the standpoint of the applicant, this is the most important section of this application. This section must describe certain reasons as provided in the Zoning Enabling Act. Chapter 40A , Section 15 of the General Laws, why the Board of Appeals should grant relief to the applicant. Primarily because of the lack of knowledge of the law, quite often an applicant for relief appears before the Board of Appeals ill prepared to surmount the legal obstacles relating to the applicant's problem.

The Zoning Enabling Act clearly sets forth three (3) requirements which must be met in granting a variance from relief. The applicant must show that:

1. Special conditions affecting a particular parcel of land or building but not affecting generally the District in which it is located created a hardship to the property.

2. The granting of a variance will not be detrimental to the public good.

3. The granting of a variance will not nullify or substantially derogate from the intent and purpose of the Zoning By-Laws.

These conditions must be met before the Board of Appeals can grant a variance. It is incumbent upon the applicant to properly prepare his case to show that all three conditions are met.

SECTION 10 - It is the responsibility of the applicant to provide names and addresses of all legal abutter to the premises affected (the term legal abutters refers to adjoining property owners including the properties across the street,) and to provide the names of other abutters that own properties that abut the previously described abutters.

In addition, the applicant must, at their expense, provide the following materials to the Zoning Board of Appeals at the time of submittal:

1. Pre-addressed and pre-stamped (NOT by a postage meter) envelopes which will be used to notify those "legal abutters" which require a certified letter of notification. The return receipts (Green Cards) are to be completely filled out with the return address on the envelope and the Green Card as follows:

Zoning Board of Appeals
999 Whipple Road
Tewksbury, MA 01876

The petitioner should attach the green and white gummed label that has the certified number on it to the top center of the envelope.

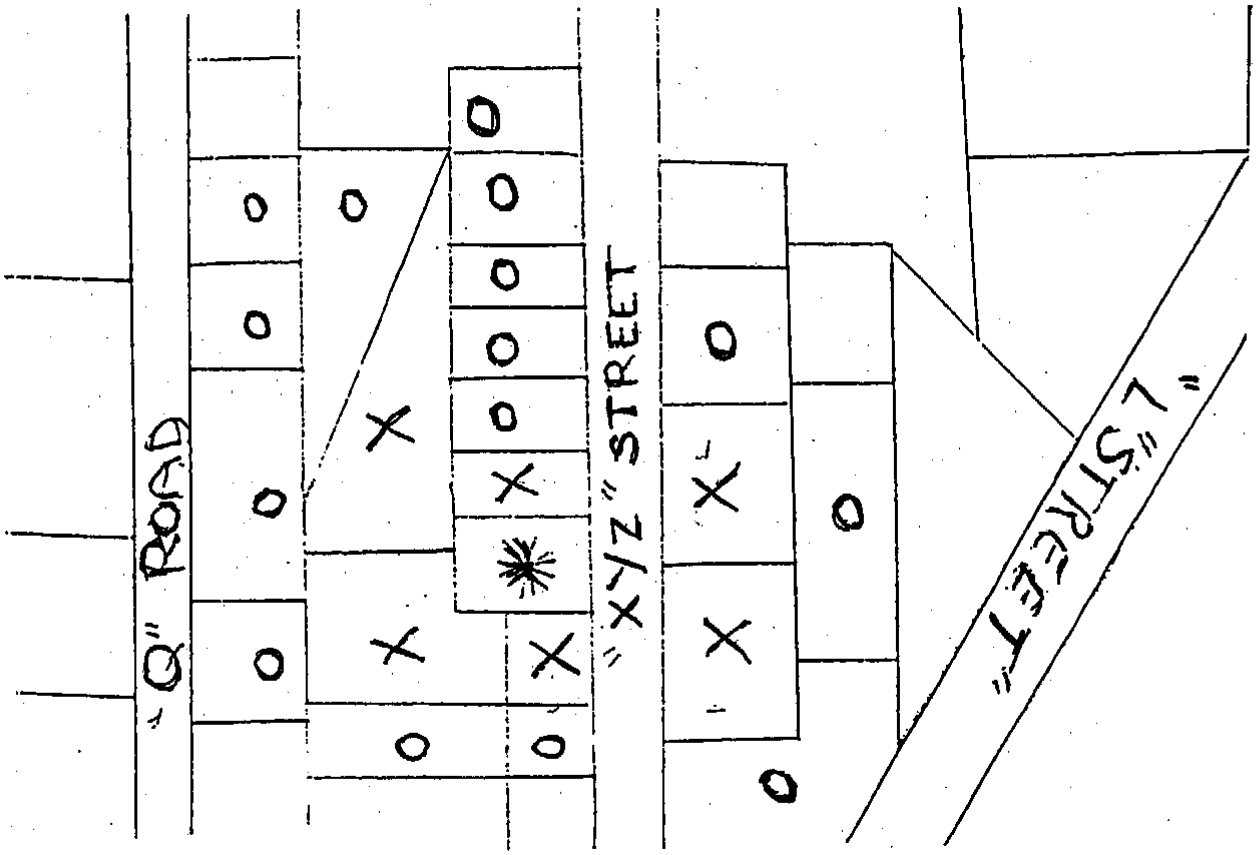
2. Pre-addressed and pre-stamped (NOT by a postage meter) envelopes which will be used to notify all other abutters listed. See example below to help clarify.

EXAMPLE

1. **LEGAL ABUTTERS:** Any properties that touch the property in question, including the properties across the street. For these purposes, the center of a street constitutes a property line. In the example, they are those properties that are represented by an “X”.

2. **OTHER ABUTTERS**: Any properties that adjoin legal abutters. In the example, they are those properties that are represented by an “O”.

Property in question represented by an "**"



GUIDANCE FOR PETITIONERS FILING TO APPEAR BEFORE THE

ZONING BOARD OF APPEALS

1. Please review all Rules and Regulations of the Zoning Board of Appeals prior to the public hearing.

11. To be granted a variance from the terms of the applicable zoning ordinance or By-Law, the petitioner must prove the following pre-requisites:

    1. Owing to circumstances relating to soil conditions, shape, or topography affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the petitioner or applicant.

    2. Desirable relief may be granted without substantial detriment to the public good.

    3. Granting the variance will not nullify or substantially derogate from the intent or purpose of the Zoning By-Law.

    Failure to satisfy any ONE of the above, DEFEATS THE PROPOSED.

111: To be granted a special permit be prepared to present data that tend to indicate that the public convenience and welfare will be substantially served; that the permission requested will not impair the status of the neighborhood; that the permission requested will be in harmony with the intent and purpose of the Zoning By-Law.

1V. Usually the most difficult pre-requisite to address is that involving substantial hardship, financial or otherwise. Hardship must include a hardship to the land and the petitioner must prove that such a hardship exists and how it may be overcome by granting the variance.

V. It is recommended that the petitioner or his attorney submit to the Board a suggested written decision which sets forth in detail all facts relied upon.

GENERAL INFORMATION REGARDING THE ZONING BOARD OF APPEALS

THE BOARD OF APPEALS - The Board of Appeals consists of Three (3) regular members appointed for three year terms each and Two (2) alternate members appointed for one year terms each. The Board of Selectmen is the appointing authority. The Board of Appeals is a quasi-judicial body (having certain critical powers of inquiry, like those of a judge) and obtains its authority from the State Statutes, which also dictate the conditions under which a petition may be favorably acted upon.

The Board of Appeals is not an advisory body and its members can not presuppose a case by disclosing opinions before the public hearing takes place. Its purpose is to render judgment based on the factual material presented at the public hearing, whether the petitioner meets the requirements for relief set forth by the law.

1. **LETTER FROM THE PROPER AUTHORITY** - A letter indicating refusal of an appropriate permit from the Inspector of Buildings (or other authority as described in Section 13 of Chapter 40A) must accompany this application.

2. **APPLICATIONS** - TWELVE copies of the application are to be completed in full by the petitioner. An application must be filed for each non-conforming lot being created.

3. **PLANS** - TWELVE copies of a plot plan showing the premises affected must be presented with the application. In addition, one copy of a plan showing the subdivision, including surrounding lots, should be furnished. A locus should also be identified. (The latter may be obtained through the Assessor's office at the Town Hall).

The plot plans must include the necessary information to enable the Board to properly identify the effect the application will have in the Zoning District where the relief is being sought. It must also include lot size, frontage, side yard and rear yard setback dimensions. In addition, it must show the position and size of the proposed and existing structures, if any. The names of abutters, along with abutting lot lines must be shown on the plans.

4. **FEE** - A filing fee (per application) to offset the administrative costs and other requirements must accompany the application. This fee is not returnable and can not be accepted without the complete application, including plot plans. This fee can only be accepted by check (either personal or certified). No cash will be accepted.

5. **DEED** - Latest copy of Quitclaim Deed shall be submitted at the hearing. Twelve (12) copies are required.

6. **MEETINGS** - A regular meeting shall be held by the Board of Appeals at the Town Hall beginning at 6:30 PM on the fourth Thursday of each month, or if that day is a Holiday or an Election day, usually the next business day (unless otherwise noted by Meeting Notice at the Town Hall). A hearing date will be scheduled and the application will be advertised. (See #7 - NEWSPAPER NOTICES).

7. **NEWSPAPER NOTICES** - The notice of the hearing will be advertised the first time at least Fourteen (14) days prior to the hearing in the local newspaper (Town Crier), the second advertising the following week.

8. **HEARINGS** - Public hearings will be held on the Thursday of the last full (M-TH) week of the following month in which the application is accepted (unless otherwise noted by meeting notice). In case the meeting and/or hearings nights, in any given month, fall on a holiday the rescheduled date will be posted on the bulletin board at the Town Hall and filed with the Town Clerk.

NOTE: The Public hearings consist of an open meeting at which time all information pertinent to the petition before the Board of Appeals is presented. Several hearings are generally held in one evening so that the Board does not usually entertain new business on that evening.

9. **RECORDING**: No notice of variance or special permit can take affect until such notice is recorded in the Registry of Deeds for the County in which the land is located. The notice must be recorded by the petitioner if and when the request is granted. The general procedure is as follows:

    1. Public hearing
    2. Decision is made
    3. Paperwork is typed
    4. Board members sign paperwork
    5. Paperwork is then filed with the Town Clerk
    6. A copy of the paperwork is mailed to the petitioner
    7. 21 days after the paperwork is filed with the Town Clerk, the petitioner brings the copy of the petition that is mailed to them to the Clerk
    8. Take all stamped paperwork to the Registry of Deeds

10. **APPEALS -** Any person aggrieved by a decision of the Board of Appeals, under Section 21 of Chapter 40A of the General Laws can submit an appeal to Superior Court and the Town Clerk within 20 days after the Board's decision has been filed with the Town Clerk. (See Town Clerk for instructions on how to file an appeal) When an application to the Board of Appeals constitutes a request by the applicant for relief from existing By-Laws, the Board may, under special conditions, grant relief from these By-Laws where strict adherence would cause UNDUE HARDSHIP TO A PARCEL OF LAND. Thus responsibility rests upon the applicant to show cause why the Board of Appeals should rule in his/her favor.

11. **RULES AND REGULATIONS -** The Rules and Regulations under which the Board of Appeals functions are available from the Town Clerk's office.

TOWN OF TEWKSBURY

MASSACHUSETTS

Case No. _____

Date App. Filed _____

Hearing Date _____

Decision _____

Do not write in this space

BOARD OF APPEALS

APPLICATION TO THE BOARD OF APPEALS

Applicant: _____ **Mailing Address**_____

1. Application is hereby made: (check one or more and fill in appropriate blanks)

   ☐ (a) For a variance from the requirements of Section _____ Para. _____ of the Zoning By-Law.

   ☐ (b) For a special permit under Section _____ Para. _____ of the Zoning By-Law.

   ☐ (c) As a party aggrieved, for review of a decision made by the Building Inspector and/or other authorities.

   What authorities? _____

2. ☐ (a) Premises affected are land and buildings numbered _____

   _____Street

   ☐ (b) Premises affected are vacant land with frontage on _____

   _____ Street(s). How to locate: _____

3. (a) Premises affected in Zoning District _____ The premises has an area _____ sq. ft.

   Frontage of _____ ft. Side yard setback of _____ ft. and _____ ft.

   Front yard setback of _____ft.

   (b) Stone bounds (are) (are not) existing on premises.

   (c) Assessors Map _____ Lot _____

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

5. (a) Size of (proposed) (existing) structure: _____ ft. front: _____ ft.

   Height: _____ stories _____ ft. Total floor area: _____ sq.

   (b) Approximate date of erection, if existing: _____

(c) Present occupancy or use: (of each floor) _____

6. Description of proposed work and/or use: _____

_____

7. (a) Has the applicant made a previous appeal involving this property to this Board: _____
If "yes", give date of appeal : _____

(b) Has the applicant appeared before any other Town Boards involving this property:_____
If "yes' give date, name of Board and reason:_____
_____

8. Deed recorded in Middlesex North Registry of Deeds, Book _____ Page _____
Registry District of the Land Court Cert. No. _____ Book _____ Page _____

9. The reasons for the change that I request are as follows: (Use additional sheet if necessary)

10. Names and address of abutters: (use additional sheet if necessary)

Legal abutters: _____(See attached certified abutter's list.)_____
Other Property Owners: _____
_____
_____

I further agree that the information submitted by me _____
is true to the best of my knowledge.

Date _____ Signature of person who filled out form _____

Date _____ Signature of Applicant _____
Applicant's Telephone # _____

INSTRUCTIONS: Applications must be typed or printed. Draw line through blanks that do not apply.
File twelve (12) copies COMPLETELY FILLED out. If applications are submitted with incomplete information, they will not be accepted.
A copy of the decision, if any, by the Building Inspector or other authority, together with twelve (12) plot plans of the affected premises, MUST be filed.

THE FILING FEE MUST ACCOMPANY THIS APPLICATION
Make checks payable to the Town of Tewksbury

THE POLICY FOR ABUTTER NOTIFICATION SHOULD INCLUDE NEIGHBORING COMMUNITIES AT THE FOLLOWING ADDRESSES:

- ATTENTION: Elaine Wijnja
  Dept. of Housing & Community Development
  100 Cambridge Street, Suite 300
  Boston, MA 02114

- N.M.C.O.G.
  40 Church Street, Suite 200
  Lowell, MA 01852-2686

- Dracut Planning Board
  62 Arlington Street
  Dracut, MA 01826

- Lowell Planning Board
  J.F.K. Civic Center
  50 Arcand Drive
  Lowell, MA 01852

- Wilmington Planning Board
  121 Glen Road
  Wilmington, MA 01887

- Billerica Planning Board
  365 Boston Road
  Billerica, MA 01821

- Andover Planning Board
  36 Bartlett Street
  Andover, MA 01810

The applicants will be responsible for the envelopes for the legal notice to the neighboring communities.

TEWKSBURY ZONING BOARD OF APPEALS
APPLICATION FEE SCHEDULE

Variance and Special Permit	$160.00	
Party Aggrieved	$110.00	
Comprehensive Permit		
Local Initiative Project (LIP)	$310.00	
All others	$510.00 plus:	$100 per market rate unit for projects numbering between 8-20 $110 per market rate unit for projects numbering between 21-300