



CITY OF GARDNER
ZONING BOARD OF APPEALS
CITY HALL ANNEX, ROOM 101
GARDNER, MA 01440
(978) 630-4007
www.gardner-ma.gov

The undersigned hereby petitions the Zoning Board of Appeals for the following (check one):

Special Permit: _____ Variance: _____ Administrative Appeal: _____ Finding: _____

Applicant Information	APPLICANT: _____
	APPLICANT ADDRESS: _____ <small>Street, Town, State, Zip Code</small>
	APPLICANT PHONE: _____ APPLICANT E-MAIL: _____

Property Information	LOCATION / ADDRESS OF PROPERTY IN QUESTION: _____
	REGISTRY OF DEEDS PROPERTY RECORDING DEED: BOOK _____ PAGE _____
	ASSESSOR'S PARCEL ID: _____ ZONING DISTRICT: _____
	OWNER'S NAME: _____ OWNER'S ADDRESS: _____
	(If different from Applicant) If Owner is <u>not</u> the Applicant – include a letter with the Application authorizing the Applicant to apply for the requested petition

DESCRIPTION OF APPLICANT'S PROPOSAL (Use additional sheet if necessary):

APPLICANT SIGNATURE: _____ DATE: _____

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IMPORTANT INSTRUCTIONS

RE: ZONING APPLICATIONS

- **Completed Zoning Application Package due to ZBA Administrative Coordinator by the Second Friday of the month, by 12pm. ZBA Public Hearings are typically held at 6:30PM on the third Tuesday of each month.**

REQUIRED DOCUMENTS FOR ZONING APPLICATION:

Sixteen Copies of each, collated: (in addition to original set to include the following)

- Completed Zoning Application
- Original Denial Letter
- Copy of the Deed & Plot Plan
- Any other plans, photographs and supporting documents
- Letter of authorization from property owner if owner is not Applicant
- Written responses to the criteria for a Special Permit or Variance as applicable

Incomplete Applications will not be accepted.

- Payment to the *City of Gardner*, to be paid at the City Clerk's Office
Application fees:

Special Permit / Variance / Administrative Appeal / Finding..... **\$350.00**

Continuance requested by Applicant..... **\$150.00**

Fee includes Administration & Publication expenses

- Appeals or petitions must be signed personally by the Appellants or Petitioners.
- If conditions of health are involved in any way in allegations of substantial hardship made by the Appellants or Petitioners, a physician's signed statement specifying such conditions should be submitted prior to the Public Hearing.

A list of Attorney's is included in this application should you wish to seek legal advice.

Revised 1/12/2023

DO NOT ATTEMPT TO DISCUSS YOUR CASE WITH ANY MEMBER OF THE BOARD AT ANY TIME PRIOR TO THE PUBLIC HEARING.

SPECIAL PERMIT

The following are the requirements for a Special Permit. The Applicant(s) should address each Criteria for a Special Permit and submit with the application. (City of Gardner Code, Chapter 675 Section 1170). The Applicant will be required to address these criteria at the Public Hearing.

A. Special permit granting authority (SPGA). Unless specifically designated otherwise, the Zoning Board of Appeals shall act as the SPGA. The Planning Board is the SPGA for infill development, the Smart Growth PUD, Development Overlay District 1, open space residential developments, Groundwater Protection Overlay District, Surface Water Protection Overlay District, Large-Scale Ground-Mounted Solar Photovoltaic Overlay District, marijuana establishments, senior residential development, drive-through or drive-in businesses, and the Mill Street Corridor Development Overlay District. One associate member may be appointed to the Planning Board by the Mayor, subject to the confirmation by the City Council. The Chairperson of the Planning Board may designate the associate member to sit on the Board for the purposes of acting on a special permit application, in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

[Amended 9/22/2021 by Ord. No. 1431: 1-2-2007 by Ord. No. 1447]

B. Criteria. Special permits shall be granted by the SPGA, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this chapter, the determination shall include consideration of each of the following:

- (1) The proposal shall be suitably located in the neighborhood in which it is proposed and/or the entire City and shall be compatible with neighborhood character, existing uses and other uses permitted by right in the same district.
- (2) The proposal shall provide convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets, property, and improvements.
- (3) The proposal shall provide adequate space for off-street parking, loading and unloading of vehicles, and goods, products, materials and equipment incidental to the normal operation of the establishment or use.
- (4) The proposal shall provide adequate and appropriate facilities and utilities for the proper operation of the proposed use and disposal of sewage, refuse or other waste products and methods of drainage of surface water.
- (5) The proposal shall not constitute a nuisance due to air and water pollution, erosion, flood, noise, odor, dust, vibrations, lights or visually offensive structures or site features.
- (6) The proposal shall not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians, as determined by the SPGA.
- (7) The proposal shall be in harmony with the general purpose and intent of this chapter.
- (8) The proposal shall not have a significant detrimental impact on City services, tax base, and employment opportunities.
- (9) The proposal is consistent with the City's Community Development Plan or Master Plan.
- (10) If the proposal is on property that was subject to a Zoning Map amendment accompanied by a sketch or concept plan pursuant to *§ 675-1160B, a statement as to the development's consistency with said sketch or concept plan and an explanation as to the reasons justifying variation, if any.

**§ 675-1160 B. Map amendments. It is recommended that private petitions for Zoning Map amendments be accompanied by sketch or concept plans depicting the intended use/development contemplated with the proposed map amendment. There are no specific plan content requirements; however, it is suggested the plan address areas of potential concern to address uncertainties or issues such as building location, size, height, design, parking, access, drainage, landscaping and other features that may reasonable be expected to be raised before the Planning Board and City Council as part of their respective deliberations.*

Expiration. Special permits shall expire if a substantial use thereof or construction thereunder has not begun, except for good cause, **within 2 years following the filing of the special permit approval** (plus such time required to pursue or await the determination of an appeal referred to in MGL c.40A, §17, from the granting thereof) with the City Clerk.

The Board may impose conditions, safeguards and limitations related to the granting of a Special Permit to which the Special Permit pertains by the Applicant, Petitioner, or any owner.

VARIANCE

The following are the requirements for a Variance. The Applicant(s) should address each Criteria for a Variance (Items 1-3 below) and submit with the application. The Applicant will be required to address these criteria at the Public Hearing.

The Applicant must address the following three requirements.

To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon, a Variance from the terms of this City Code where:

- 1) A literal enforcement of the provisions of this Code would involve substantial hardship, financial or otherwise, to the Petitioner or Appellant owing to **circumstances relating to the soil conditions, shape, or topography of such land or structures** and especially affecting such land or structures, but not affecting generally the zoning district in which it is located.
- 2) Desirable relief may be granted without **substantial detriment to the public good or creating or aggravating a safety hazard.**
- 3) Desirable relief may be granted without nullifying or substantially **derogating from the intent or purpose of this Code** but not otherwise.

The Board may impose conditions, safeguards and limitations both of time and use, including the continued ownership of the land or structures to which the Variance pertains by the Applicant, Petitioner or any owner.

Expiration: If the rights authorized by a Variance are not exercised within one (1) year of the date of such Variance, they shall expire, and may be re-established only after notice of new hearing.

ATTORNEYS ZONING LAW.

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