

### **BOARD OF APPEALS - PROCEDURES FOR A 40 B Application**

1. The Building Inspector may direct you to go before the Board of Appeals if what you have proposed to build does not conform to the Dracut Zoning By-laws. A written denial from the Building Inspector is not required. However in order to apply for a special permit and/or variance you do need to be the property owner or interested party in the property. If you are not the property owner you must have a letter from the property owner giving you permission to represent them. You or a representative for you must appear before the Board and present your case.
2. The required paperwork to be filed with the Board of Appeals secretary is as follows: **YOU MUST HAVE YOUR LAND SURVEYED SHOWING THE NEW PROPOSAL ON A PLOT PLAN.** Twenty-four (24) copies of the new Plot Plan showing proposed project including table of dimensional requirements and locus plan; two (2) Original application forms, one (1) Deed of your property; one (1) Abutters List from the Assessors Office of your abutters within a 300' radius of your property, one (1) set of addressed envelopes with postage of all abutters (include yourself) from Assessors list and a \$500 filing fee. The Board of Appeals Secretary must have all paperwork required before she can schedule a meeting.
3. Your new Plot Plan must show the following: the exact size of the lot, the exact location of any existing building or proposed building, the front, side and rear setbacks from any existing or proposed building to the lot line, the **wetlands delineated** on the property, a table of dimensional requirements and a locus plan.
4. It is suggested that your first step be to go directly to the Assessors Office with your Application for an Abutter's List. The Assessors Office has up to thirty (30) days to supply you with this list. The fees for this list are attached. You should then get your plot plan drawn. These two procedures are the most time consuming.
5. Once all material is received, the secretary will mail a Legal Notification to you and all your abutters approximately fourteen days prior to the next Board of Appeals meeting date. This is a public hearing and will be posted in the newspaper (The Lowell Sun) the two Thursdays before the hearing.
6. Once a decision is rendered, the secretary has two weeks to type the decision, get signatures from the Board Members and file it with the Town Clerk's office. **She will mail your copy of the decision to you. This is the copy you will need to file at the Registry of Deeds once the twenty-day appeal period is up.**
7. Once the decision is stamped at the Town Clerk's office, anyone wishing to appeal the decision made by the Board of Appeals may do so within twenty (20) days of the filing date. Appeals are made at the Town Clerk's office.
8. If no appeals are made **you will take your copy of the decision that was mailed to you** to the Town Clerk's office and have the Town Clerk stamp it showing that no appeals were filed against your petition and then take it down to the Registry of Deeds in Lowell and file it.
9. Take your copy of the decision to the Registry of Deeds, 360 Gorham Street, Lowell, MA and record it. (There is a fee to do this). Once you have filed it, you bring the receipts to the Building Department showing that you have recorded your Special Permit and/or Variance. You are now ready to apply for a Building Permit.
10. **A 40 B – Comprehensive Special Permit once granted must be acted upon within three (3) years of date of grant or it becomes null and void.**

**The Board of Appeals will refuse any plot plan that does not have the required Table of Dimensional Requirements, Locus Plan and Wetlands delineated on them. The Board of Appeals secretary will not accept any petition unless all required material is in packet: twenty-four (24) Plot plans, two (2) Original applications, one (1) Abutters list from the Dracut Assessor's Office, one (1) set of addressed envelopes, one (1) deed, and one (1) \$500 filing fee.**

**Town of Dracut Building Department Board of Appeals  
Application for Hearing**

**Name of Applicant:** \_\_\_\_\_  
**Applicant must be the Owner of the property. (If not, a letter from the owner required or the owner must be present at the Board of Appeals hearing.)**

**Address:** \_\_\_\_\_

**Location of property:** \_\_\_\_\_

**Current owner of land and date of purchase:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Nature of Application:** \_\_\_\_\_

**(State reason for application)** \_\_\_\_\_

**Attachments Required:**

**Twenty-four (24) Copies of plot plans, showing locus plan and table of dimensional requirements**  
**Two (2) Applications (original signatures)**  
**One (1) Abutters list from Board of Assessors (with 1 set of stamped envelopes from abutters list)**  
**One (1) Deed**  
**One (1) \$500 filing fee**

**I hereby request a hearing before the Board of Appeals with reference to the above nature of application. I further attest that I have been made aware of the “Rules and Regulations for the Board of Appeals of Dracut” and that a copy of it is in the Building Inspector’s office. Applicants are strongly urged to obtain and read a copy of the above regulations as well as the Zoning By-Laws for the Town of Dracut and MA General Laws, Chapter 40B.**

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

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**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**CERTIFIED LIST OF ABUTTERS  
OFFICE OF THE BOARD OF ASSESSORS**

As requested by the \_\_\_\_\_ (Board or Commission)

The undersigned, being an applicant for the land shown in the application package from the Assessors:

MAP \_\_\_\_\_ BLOCK \_\_\_\_\_ LOT \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

SQ FT \_\_\_\_\_

Has been provided the attached list of abutters as reflected by the Assessors Maps.  
Parties on the list are those as determined by the Board of Assessors and in compliance with the rules and regulations as set forth in the Dracut Zoning By-Laws.

APPLICANT \_\_\_\_\_

ADDRESS \_\_\_\_\_

Application for abutters received by the Office of Assessors on:

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

By: \_\_\_\_\_

Fee Paid and received by \_\_\_\_\_

This is to certify that at the time of the last assessment for the taxation made by or for the Town of Dracut, the names and addresses of the parties abutting the parcel herein described are those officially designated as such by this Board.

**FOR THE BOARD OF ASSESSORS**

**KAREN GOLDEN, CHIEF ASSESSOR** \_\_\_\_\_

**AMY SILVA, ASSESSOR** \_\_\_\_\_

**ANN VANDAL, ASSESSOR** \_\_\_\_\_

Telephone number \_\_\_\_\_

RECEIVED BY \_\_\_\_\_

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## **TOWN OF DRACUT – ZONING BY LAWS**

The construction or use has commenced within a period of not more than six months after the issuance of the permit and that in cases involving construction, such construction is continued through to completion as continuously and expeditiously as is reasonable.

### **Special Permit from Section 2.16.22**

**2.16.22 Changes, Extensions and Alterations** – A nonconforming structure of use may be changed, extended or altered, provided that in each case the Planning Board by Special Permit finds that such change, extension or alteration is not substantially more detrimental or injurious to the neighborhood than the existing nonconforming structure or use. Any proposed change, extension or alteration to a single family or a two-family dwelling may be authorized by a Special Permit for the Board of Appeals, subject to the standards set out in this Section and Section 2.16.24. Any other change, extension, and/or alteration other than to a single family, or a two family dwelling shall proceed only as is authorized by the Planning Board, and the Planning Board shall find that the change, extension and/or alteration would not:

1. Substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed;
2. Create a danger to public safety by reason of traffic access, flow and circulation; and
3. Be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed.

**2.16.23 Restoration** – Restoration of a nonconforming structure, which has been damaged by fire, flood or other casualty or by vandalism, may be made without conformance to the provisions of this By-law or any amendment hereto, provided that such restoration shall have commenced within six months of the date the damage was sustained and that such restoration continue through to completion as continuously and expeditiously as is reasonable.

**2.16.24 Residential Dwellings** – The provisions of this subsection shall not apply to the alterations, reconstruction, extension, or structural change to a single or two-family residential structure lawfully in existence at the time of enactment of this amendment under the following circumstances:

## Chapter 40A, §10

## Variances

Variances Cannot Be Granted Unless Permitted Granting Authority Specifically Finds that All Conditions Have Been Met

The permit granting authority shall have the power after public hearing for which notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that 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, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. Except where local ordinances or by-laws shall expressly permit variances for use, no variance may

Use Variance Must be Expressly Authorized in Ordinance or By-Law

authorize a use or activity not otherwise permitted in the district in which the land or structure is located; provided however, that such variances properly granted prior to January first, nineteen hundred and seventy-six but limited in time, may be extended on the same terms and conditions Those were in effect for such variance upon said effective date.

Varinace Cannot be Conditioned on Continued Ownership

the permit granting authority may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures But excluding any conditions, safeguards or limitations based Upon the continued ownership of the land or structures to Which the variance pertains by the applicant, petitioner or Any owner.

Rights Authorized by Variance Must be Exercised Within 1 year

if the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting Authority in its discretion and upon written application by the Grantee of such rights may extend the time for exercise of Such rights for a period not to exceed six months; and Provided, further, that the application for such extension is Filed with such permit granting authority prior to the expiration of such one-year period. If the permit granting Authority does not grant such extension within thirty days of The date of application therefore, and upon the expiration of The original one-year period, such rights may be re-established only after notice and a new hearing pursuant to the provisions of this section.

Extensions

Added by St.1975, c.808, §3. Amended by St.1977, c.829, §St.1984, c.195.

## 2.12.50 Table of Standard Dimensional Requirements

| Dimension  | Zoning District |          |          |          |          |          |          |          |          |          |  |  |
|--|-----------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|--|--|
|  | R1              | R2       | R3       | B1       | B2       | B3       | B4       | B5       | I1       | I2       |  |  |
| Minimum Lot Area<br>(Square Feet) 1/<br>X 1,000                            | 40              | 80       | 40       | 22       | 22       | 30       | 40       | 30       | 90       | 90       |  |  |
| Minimum Lot Front-<br>age (Lin. Feet)                                      | 175             | 200      | 150      | 125      | 125      | 150      | 200      | 150      | 225      | 225      |  |  |
| Minimum Lot Width<br>(Lin. Feet)   | 30              | 50       | 50       | 20       | 20       | 20       | 50       | 20       | 50       | 50       |  |  |
| Minimum Front<br>Yard (Lin. Feet)  | 30              | 30       | 30       | 30       | 30       | 50       | 100      | 50       | 100      | 100      |  |  |
| Minimum Side Yard<br>(Lin. Feet) 2/<br>Minimum Rear Yard<br>(Lin. Feet) 2/ | 15              | 15       | 15       | 20       | 20       | 30       | 15       | 15       | 15       | 40       |  |  |
|  | 35              | 35       | 35       | 15       | 15       | 20       | 40       | 20       | 40       | 40       |  |  |
| Maximum Building<br>Height (Lin. Feet)                                     | 3/<br>36        | 3/<br>36 | 3/<br>36 | 3/<br>36 | 3/<br>36 | 4/<br>40 | 5/<br>45 | 4/<br>40 | 6/<br>65 | 6/<br>65 |  |  |

1/ Multi-family development must comply with Section 4.12.00 of this By-law.

2/ Including buffering requirements as per Section 3.14.00 of this By-law.

3/ Not to exceed 2 1/2 stories.

4/ Not to exceed 3 stories.

5/ Not to exceed 3 1/2 stories.

6/ Not to exceed 5 stories.  
(Side Yard Requirements changed for Residential-See Changes)