



Town of Lexington
Land Use, Health and Development Department

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James Kelly, Building Commissioner

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MEMORANDUM

To: ZBA Applicants
From: Zoning Department
Date: July 13, 2021
RE: General Zoning Board of Appeals Process

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1. The applicant files a complete Board of Appeals application (see instructions on application) is filed by the application deadline (see Board calendar) with the Building Division. It is recommended that Building Division staff review the application prior to filing.
 2. Next, the hearing is advertised as required by the provisions of MGL c. 40 and hearing date is set. Hearings are open to the public.
 3. On the hearing date, the applicant appears at the hearing on his/her own behalf or is represented by an agent or attorney. In the absence of an appearance by the applicant or agent/attorney on behalf of an applicant, the Board may decide the matter using information it has received or dismiss the petition with or without prejudice.
 4. At the hearing, the order of business is as follows:
 - a. The Chair reads the petition, legal notices, and indicates whether any comments were received by Town Departments.
 - b. The applicant makes their presentation.
 - c. Parties seeking information are recognized.
 - d. Parties in favor or opposed are be recognized.
 - e. The applicant has the opportunity to rebut, restricted to matters raised by opponent's presentation.
 5. Also, at the hearing, Board members may direct appropriate questions/comments at any time during the hearing.
 6. After all testimony is taken, the hearing is declared closed or continued to a date specific.
 7. If a hearing is declared closed, the Board will vote on the petition the same night.
 8. The Board vote is as follows: the concurring vote of at least four members of the Board is necessary in any action taken by the Board.
 9. An application may be withdrawn without prejudice as of right before notice has been sent to the newspaper for publication or by mail to affected persons. After notice has been sent, withdrawal of an application will normally be allowed without prejudice for good cause shown by the applicant at the hearing and upon filing with the Board a statement that all persons previously notified by mail have been notified by the applicant of his/her intent to withdraw the application.
 10. After a petition has been voted and the meeting adjourned, there shall be no reconsideration of a decision of the Board.
 11. Next, a decision is drafted. The decision identifies the vote, findings, and action taken by the Board relative to the petition.

12. After the decision is complete it is filed with the Town Clerk's Office. Once filed with the Town Clerk the appeal period begins.
13. After the appeal period ends the applicant goes to the Town Clerk's Office and obtains a letter indicating that no appeal has been taken (applicable only to situations where no appeal has been made).
14. Next, the letter, stating that no appeal has been taken, and the decision are filed at the South Middlesex Registry of Deeds.
15. Last, the applicant or agents on behalf of the applicant may proceed to obtain a building permit or otherwise begin work authorized by the grant of a special permit or variance. The special permit or variance does not take effect until it is filed with the Registry of Deeds.