



## TOWN OF YARMOUTH BOARD OF APPEALS APPLICATION

The following Rules and Regulations are hereby adopted by the Yarmouth Board of Appeals and shall govern the submission of all Appeals, Applications for Special Permit, Applications for Comprehensive Permit, and Petitions for Variance to the board and the conduct of all hearings held thereon. These Rules and Regulations are adopted in accordance with M. G. L. Chapter 40A ●9 & 12. In the event of a conflict between any of these Rules and Regulations, the provisions of any by-law or statute, as the case may be shall prevail. The invalidity of any section or provision of these Rules and Regulations shall not invalidate any other section or provision hereof.

1. All Appeals, applications for Special Permit or Comprehensive Permit, and petitions for Variance to the Board **shall be submitted on the forms provided** by the Board for such applications.
2. Two (2) **original** applications (attached) (no photocopies), type written or hand printed) and a copy of the **most recent deed** must be completed and signed by **the Petitioner, the Property Owner and Building Commissioner** **prior** to filing the application with the Board of Appeals.
3. If determined by the Building Commissioner, a formal Site Plan Review hearing must be **completed prior to filing the application** with the Board of Appeals
4. On the application, in the space provided for **“Project”**: after the word **“property”**, summarize what it is the applicant proposes to do, (see sample provided on application) as this is the information used for the legal advertisement in the newspaper. The hearing could be illegal if this information is incorrect or incomplete.
5. All Appeals, applications for Special Permits and Variances must be accompanied by **6 Certified Plot Plans & Elevation Plans** not more than **2 years old (13 Certified Plot Plans** if within the **Aquifer Protection District if commercial project)**, (Comprehensive Permits must be accompanied by **19** sets of plans along with proof of filing a copy with the Cape Cod Commission), The petitioner shall file with the application sufficient plans and drawings so that the Board can address all of the criteria prepared by a Registered Land Surveyor or qualified Professional Engineer which shall show; the locus; the parcel or parcels of land involved; the existing or proposed building or buildings; the proposed additions or alterations of existing buildings with all dimensions set forth; the location of the septic; the existing or proposed frontage, front, side, rear line distances; all perimeter dimensions (existing and proposed); location and width of abutting, and on-site, street and drives, parking, existing topography; a grading plan, areas of proposed and retained vegetation, distinction between upland and wetland. In the case of new construction, renovations and additions, raze and replacements, accessory apartments, the Board also requires architectural renderings, sketches or elevations, scaled floor plans and certified plot plans showing existing and proposed conditions) However, the Board may in its discretion waive these requirements or request additional material considered necessary for its review of the application. Extra copies of the plans will be disposed of after the hearing unless otherwise requested.
6. For all Appeals, applications for Special Permits or Comprehensive Permits, or Variances the applicant shall provide the current Assessors Map and Lot Number for the property which is subject

of the petition, and accompanied by a list, by the current Assessor's MAP & LOT Number, of the abutters (see assessors Certification for Abutters List attached)

7. **Residential** applications for Special Permits, Variances or request to overturn the decision of the Building Inspector must be accompanied by a filing **fee of \$125.00, plus postage**. **Commercial** applications for Special Permits, Variances, or request to overturn the decision of the Building Inspector must be accompanied by a filing **fee of \$200.00, plus postage**. Application for a Comprehensive Permit (per M.G.L., ch. 40B), must be accompanied by a filing fee of **\$300.00**, plus postage. **Postage charges for all applications will be determined by multiplying the number of abutters (including the applicants parcel) times .56¢, which is the current cost for the two required mailings.**

8. Hearings (max. 4) shall be held by the Board on the Second and Fourth Thursday of each month at **6:00 p. m.** or at the call of the Chairman or Acting Chairman in the Yarmouth Town Offices 1146 Route 28 South Yarmouth, or at such other place as the Chairman or Acting Chairman may from time to time designate.

9. Hearings shall be held in accordance with M. G. L. Chapter 39, §23A-23C and shall be open to the public except at such times as the Board, by majority vote, shall vote to go into Executive Session in accordance with provisions of M. G. L. Chapter 39, §23A.

10. The Board may, in a particular case, waive strict compliance with the requirements of these Rules and Regulations when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Zoning Enabling Act or the Zoning By-laws of the Town of Yarmouth.

## **CONDITIONS**

At each and every hearing of the Board of Appeals, whether you are seeking a Variance, Special Permit, or Comprehensive Permit, the following conditions or criteria will apply:

### **Conditions for a VARIANCE:**

The Board of Appeals may authorize, upon appeal, a Variance from the terms of the Zoning By-laws with respect to and including Variances for use, with respect to particular land or structures. Such Variances shall be granted only in cases where the Board of Appeals finds **ALL** of the following:

1. A literal enforcement of the provisions of the by-law would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

**AND**

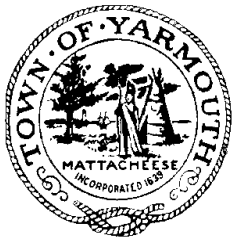
2. The hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structure and especially affecting such land or structures, but not affecting generally the zoning district in which it is located.

**AND**

3. 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 bylaw.

### **Conditions for a SPECIAL PERMIT or a COMPREHENSIVE PERMIT:**

The Board of Appeals approval or special exceptions shall not be granted unless the applicant demonstrates that no undue nuisance, hazard, or congestion will be created and that there will be no substantial harm to the established or future character of the neighborhood nor of the town.



TOWN OF YARMOUTH  
BOARD OF APPEALS

APPLICATION FOR HEARING

Appeal#: \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Fee\$ \_\_\_\_\_

**Owner-Applicant:** \_\_\_\_\_

(Full Names- including d/b/a)

\_\_\_\_\_  
(Address) (Telephone Number) (Email Address)

and is the (check one)  Owner  Tenant  Prospective Buyer  Other Interested Party

**Property:** This application relates to the property located at: \_\_\_\_\_

\_\_\_\_\_ and shown on the Assessor's Map #: \_\_\_\_\_ as Parcel#: \_\_\_\_\_

Zoning District: \_\_\_\_\_ If property is on an un-constructed (paper) street name of nearest cross street, or other identifying location: \_\_\_\_\_

**Project:** The applicant seeks permission to undertake the following construction/use/activity (give a brief description of the project. i.e.: "add a 10' by 15' deck to the front of our house" or "change the use of the existing building on the property"):

**RELIEF REQUESTED:** The applicant seeks the following relief from the Board of Appeals:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1) \_\_\_\_\_ REVERSE THE DECISION OF THE BUILDING INSPECTOR OR THE ZONING ADMINISTRATOR dated \_\_\_\_\_ (attach a copy of the decision appealed from). State the reason for reversal and the ruling which you request the Board to make. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

2) \_\_\_\_\_ SPECIAL PERMIT under § \_\_\_\_\_ of the Yarmouth Zoning By-law and/or for a use authorized upon Special Permit in the "Use Regulation Schedule" §202.5 \_\_\_\_\_. (use space below if needed)

3) \_\_\_\_\_ VARIANCE from the Yarmouth Zoning By-law. Specify all sections of the by-law from which relief is requested, and, as to each section, specify the relief sought:

Section: \_\_\_\_\_ Relief sought: \_\_\_\_\_

Section: \_\_\_\_\_ Relief sought: \_\_\_\_\_

Section: \_\_\_\_\_ Relief sought: \_\_\_\_\_

**ADDITIONAL INFORMATION:** Please use the space below to provide any additional information which you feel should be included in your application:

\_\_\_\_\_  
\_\_\_\_\_

**FACT SHEET**

**Current Owner of Property as listed on the deed** (if other than applicant): \_\_\_\_\_

\_\_\_\_\_  
Name & Address

Title deed reference: Book & Page# \_\_\_\_\_ or Certificate # \_\_\_\_\_

Land Court Lot # \_\_\_\_\_ Plan # \_\_\_\_\_ **(provide copy of recent deed)**

Use Classification: Existing: \_\_\_\_\_ §202.5 # \_\_\_\_\_

Proposed: \_\_\_\_\_ §202.5 # \_\_\_\_\_

Is the property vacant: \_\_\_\_\_ If so, how long?: \_\_\_\_\_

Lot Information Size/Area: \_\_\_\_\_ Plan Book and Page \_\_\_\_\_ / \_\_\_\_\_ Lot# \_\_\_\_\_

Is this property within the **Aquifer Protection Overlay District**? Yes \_\_\_\_\_ No \_\_\_\_\_

Have you completed a formal commercial site plan review (if needed)? Yes \_\_\_\_\_ No \_\_\_\_\_

**Other Department(s) Reviewing Project:** Indicate the other Town Departments which are/ have/ or will review this project, and indicate the status of their review process: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Repetitive Petition:** Is this a re-application: \_\_\_\_\_ If yes, do you have Planning Board Approval? \_\_\_\_\_

**Prior Relief:** If the property in question has been the subject of prior application to the Board of Appeals or Zoning Administrator, indicate the date and Appeal number(s) and other available information. **Include a copy of the decision(s) with this application:**  
\_\_\_\_\_  
\_\_\_\_\_

Building Commissioner Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Applicant's /Attorney /Agent Signature

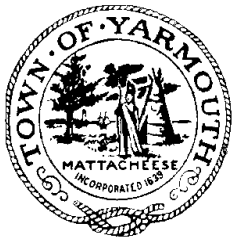
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Owner's Signature

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

Phone \_\_\_\_\_

E-Mail: \_\_\_\_\_

\_\_\_\_\_  
Building Commissioner Signature Date



**TOWN OF YARMOUTH  
BOARD OF APPEALS  
APPLICATION FOR HEARING**

Appeal#: \_\_\_\_\_ Hearing Date: \_\_\_\_\_ Fee\$ \_\_\_\_\_

**Owner-Applicant:** \_\_\_\_\_  
(Full Names- including d/b/a)

\_\_\_\_\_  
(Address) (Telephone Number) (Email Address)  
and is the (check one)  Owner  Tenant  Prospective Buyer  Other Interested Party

**Property:** This application relates to the property located at: \_\_\_\_\_  
\_\_\_\_\_ and shown on the Assessor's Map #: \_\_\_\_\_ as Parcel#: \_\_\_\_\_  
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street, or other identifying location: \_\_\_\_\_

**Project:** The applicant seeks permission to undertake the following construction/use/activity  
(give a brief description of the project. i.e.: "add a 10' by 15' deck to the front of our house" or  
"change the use of the existing building on the property"):

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information which you feel should be included in your application:

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\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_

Building Commissioner Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Applicant's /Attorney /Agent Signature

\_\_\_\_\_  
Owner's Signature

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

Phone \_\_\_\_\_

E-Mail: \_\_\_\_\_

\_\_\_\_\_  
Building Commissioner Signature Date

**YARMOUTH BOARD OF APPEALS  
ABUTTERS LIST**

Petition# \_\_\_\_\_ Name \_\_\_\_\_

Filing Date: \_\_\_\_\_ Hearing Date: \_\_\_\_\_

Property Location: \_\_\_\_\_

Notices must be sent to the petitioner (applicant), **abutters**, and **owners of land directly opposite on any public or private street or way, and abutters to the abutters** (only within 300 feet of the property line) of the petitioner as they appear on the most recent applicable tax list. Provide only the **abutters map and lot number** . Postage charges for all applications will be determined by multiplying the number of **abutters (and the parcel (s) in question) times .56¢**, which is the current cost for the two required mailings. **Add that to the application fee and include your check with the application.**

|                     | <b>Map Number</b> | <b>Lot Number</b> | <b>Map Number</b> | <b>Lot Number</b> |
|---------------------|-------------------|-------------------|-------------------|-------------------|
| <i>Applicant #</i>  |                   |                   |                   |                   |
| <i>Abutters #'s</i> |                   |                   |                   |                   |
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2 Labels-1 Hard Copy  
Assessors Field Card with photo

\_\_\_\_\_  
Andy Machado, Director of Assessing

**SCHEDULE OF BOARD OF APPEALS MEETINGS FOR 2019**  
(subject to change)

The Yarmouth Board of Appeals meets at **6:00 p.m. on Thursdays**, in the Hearing Room at Town Hall, located at 1146 Route 28, South Yarmouth.

**FILING DEADLINE\* 12:00 p.m.**

**HEARING DATE**

|                   |                      |
|-------------------|----------------------|
| December 20, 2018 | January 10           |
| January 2         | January 24           |
| January 23        | February 14          |
| February 6        | February 28          |
| February 20       | March 14             |
| March 6           | March 28             |
| March 20          | April 11             |
| April 3           | April 25 - cancelled |
| April 17          | May 9                |
| May 1             | May 23               |
| May 22            | June 13              |
| June 5            | June 27              |
| June 19           | July 11              |
| July 2            | July 25              |
| July 17           | August 8             |
| July 31           | August 22            |
| August 21         | September 12         |
| September 4       | September 26         |
| September 18      | October 10           |
| October 2         | October 24           |
| October 23        | November 14          |
| November 20       | December 12          |

**\*Note:** The Board of Appeals will take four (4) applications/petitions per meeting/agenda. If the agenda fills before the filing deadline you will be placed on the agenda for the next meeting. It shall be the policy of the Board to conclude all hearings by 10:00 PM. To this end, the agenda for all hearings shall be closed once it appears to the Board that additional matters will not be able to be accommodated within this time limitation. In the event that the hearings scheduled on an agenda are not concluded by 10:00 PM, the Board may announce that no new matters shall be commenced thereafter, and shall close the hearing as soon thereafter as the Board determines to be appropriate. Any matters not concluded on the scheduled date shall be continued to the next available agenda.