

**FREETOWN BOARD OF APPEALS
FREETOWN, MASSACHUSETTS
INFORMATIONAL FACT SHEET**

REQUIREMENTS: Petitioner must bring the following to the hearing:

1. Letter of intent
2. Plot plan to include: main dwelling, septic placement, and any accessory buildings
3. Copy of the deed

Variances from the Zoning By-Law can only be granted by the Board of Appeals in compliance with Section 10 of Chapter 40A Massachusetts General Laws, the text of which is, in part, as follows:

The permit granting authority shall have the power after public hearing notice has been given by publication and posting as provided in Section 11 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 the circumstances relating to the soil conditions, shape, or topography of 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.

If you have any questions, please feel free to contact any member of the Freetown Zoning Board of Appeals.

It is up to the petitioner to convince to the Board that this variance should be granted.

YOU HAVE TO PROVE ALL FOUR THINGS TO THE BOARD:

1. That there is something unique about the shape, soil conditions or topography of the land, or that there is something unique about the shape of the structure.
2. That there is a hardship to the land.
3. That there will be no derogation from the intent of the by-law.
4. That there will be no harm to the public good.

EXAMPLES OF CONDITIONS WHICH MAY EFFECT A PARTICULAR LOT AND NOT THE ZONING DISTRICT IN GENERAL

Example of **SHAPE OF LOT**

A family has a lot that is situated at the outside of a sharp bend in the road. The lot was laid out long years ago. It has only thirty feet of frontage on the road, but it gets wider as it goes back. It is a good size lot with more that the required area, but the lack of frontage prevents them from getting a building permit. This is an unavoidable burden on the lot so the Board of Appeals can consider this in its decision to allow a variance from the frontage requirement.

Example of **SOIL CONDITION**

A family has bought a lot which meets the frontage and area requirements of the by-law. They want to build a house on it.

When they start to dig the basement hole they find sub-surface peat in sufficient amount to prevent them from being able to place the house in conformity with the setback requirements of the by-law. This would probably meet the test of a condition affecting this particular lot and the Board of Appeals can consider it in allowing a variance from the setback requirements.

Example of **TOPOGRAPHY**

A couple have a lot which meets the frontage and area requirements of the by-law. They want to build a house on it. There is a small steep hillock to one side which adds charm to the lot but prevents them from being able to meet the side setback requirements on the opposite side from the hill. The Board of Appeals finds that this is a rather unusual hill and that it is impractical to cut into it and build a retaining wall. The Board can consider this in the decision as to whether or not to allow a variance from the setback requirements.

Example of **SHAPE OF STRUCTURE**

A man has inherited a well-made building which many years ago was an automobile agency. It is located in a developed residential district. While it is possible to make this into a house to live in, the Board of Appeals finds that the result would probably be a monstrosity.

The owner is a printer and he wants to conduct his business in the building. The Board of Appeals could consider the shape of this building, which makes it highly unsuitable for a residence, in allowing a variance from the uses permitted in that district. They more than likely would attach conditions and safeguards to the decision to protect the neighborhood.

Section 10. Variances

The permit granting authority shall have the power after public hearing 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 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 that were in effect for such variance upon said effective date.

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 condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance they shall lapse, and may be reestablished only after notice and a new hearing pursuant to this section.

Added by St. 1975, c.808, s. 3; Amended by St. 1977, c. 829, s. 4b

FREETOWN ZONING BOARD OF APPEALS

FREETOWN, MASSACHUSETTS

INFORMAL GUIDELINE TO CONDUCTING PUBLIC HEARINGS

1. Open the hearing
2. Letter of intent to be read by the petitioner
3. Description of proposed project
4. Abutters speak - pro and con
5. Rebuttal by petitioner
6. Further discussion as permitted by the Board
7. Close the hearing
8. Board discussion only
9. Board decision (table, continue, grant, deny, etc.)

The Board reserves the right to deviate slightly from this informal format.