

ARTICLE I
Section 1-30

BOARD OF APPEALS

Section 1-30.1 – Composition, Terms and General Authority. A zoning Board of Appeals also known hereafter as the “Permit Granting Authority” and, where special permits are applied for as specified by this ordinance, as the “Special Permit Granting Authority” is hereby established to consist of three (3) members to be appointed by the mayor and confirmed by the City Council and to serve without compensation.

All members of the Board of Appeals shall be residents of the city. The appointments first made shall be for the term of one (1), two (2), and three (3) years respectively, so that the term of one member shall expire each year. All subsequent appointments shall be for the term of three (3) years.

First and second alternate members shall also be appointed, in the same manner as the appointment of regular members, each for a two- (2) year term, to serve in the case where a regular member is absent or is a party in interest.

Vacancies shall be filled for unexpired terms in the same manner as in the case of regular appointments.

Any members may be removed for causes by the mayor with the approval of a majority of the members of the city council upon written charges and after a public hearing.

The Board of Appeals shall organize yearly, choosing a chairman and a secretary.

The Board of Appeals shall act on all matters within its jurisdiction under this ordinance in the manner prescribed in Sections 10 and 11 of Chapter 40 A of the General Laws, as amended and subject always to the rule that it will give due consideration to promoting the public health, safety, convenience and welfare, encouraging the most appropriate use of land, and conserving property value, that it shall permit no building use, injurious, noxious, offensive or detrimental to a neighborhood, and that it shall prescribe appropriate conditions and safeguards in each case.

Section 1-30.2 – Specific Duties.

1. To hear and decide applications for special permits upon which the Board is empowered to act under this ordinance or by law.
2. To hear and decide petitioners for variances, where it finds:
 - a. That owing to circumstances relating to soil conditions, shape or topography of 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 would involve substantial hardship, financial or otherwise, to the petitioner.

- b. That desirable relief may be granted without substantial detriment to the public good.
- c. That granting such relief would not nullify nor substantially derogate from the intent or purpose of such ordinance or by law.

Section 1-30.3 – Procedure for Application. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Superintendent of Buildings shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

Section 1-30.4 - Public Hearings. The Board of Appeals shall require notice be given by publication in a newspaper of general circulation in the city once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the hearing, and by posting such notices in a conspicuous place in City Hall.

Notices shall be sent by mail, postage prepaid, to the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line as they appear on the most recent applicable tax list including those in another city or town, the Planning Board and Planning Boards of all abutting cities and towns. Such notices shall be prepared, published, posted and mailed by the City Clerk.

Section 1-30.5 – Consultation. In the case of any appeal, application or petitioner, the Board of Appeals shall consult with the Planning Board to discuss the matter, preferably before the date of the Public Hearing or in any event before final action is taken by the Board of Appeals.

Upon receipt of a copy of said appeal, application or petition, the Planning Board shall submit its recommendations to the Zoning Board of Appeals and to the applicant within the time as designated by Chapter 40A of the General Laws.

The Board of Appeals shall also consult with any other city agency or board, as it may consider necessary for recommendation regarding petition review.

Said city agency or board shall forward its recommendation to the Zoning Board of Appeals and to the applicant within the time as designated by Chapter 40A of the General Laws.

Section 1-30.6 – Other Procedural Requirements. The Board of Appeals shall conform to all procedural requirements of Chapter 40A of the General Laws of the Commonwealth of Massachusetts regarding the general conduct of its business and the timely processing, hearing, decision rendering and filing of all petitions and applications

for special permits, variances and appeals within its jurisdiction as required by this ordinance.

Section 1-30.7 – Decisions – Notice- Appeal

1. The decision of the Board of Appeals shall be made within seventy-five (75) days after the filing of an appeal application or petition EXCEPT in regard to a special permit when such decision shall be made within ninety (90) days.

A concurring vote of the three members of the Board shall be required to grant a variance, or appeal. A detailed record of its proceedings, indicating the vote of each member, the reason for its decision, and official actions shall be filed within fourteen (14) days in the office of the City Clerk and shall be a public record.

Failure of the Board to act within the allowed time shall be deemed to be an approval of the appeal, application, or petition. No variance or special permit or any extension, modification, or renewal thereof, will take effect until a copy of the decision bearing the certification of the City Clerk that twenty (20) days have elapsed, and that no appeal has been filed, or denied, is recorded in the Registry of Deeds.

2. Notice of the decision shall be issued to the owner and to the applicant.
3. Each notice of a decision shall specify that appeals from the order or decision may be made to the Superior Court, Land Court, or the Hampden County Housing Court, and by filing a copy of the complaint with the City Clerk within twenty (20) days of the filing order or decision with the City Clerk.

Section 1-30.8 – Rescission of Vote. The concurring vote of all the members of the Board shall be necessary to reverse any order or decision of the Superintendent of Buildings, or to decide in favor of the applicant on any matter upon which it is required to pass under the Zoning Ordinance, or to effect any variance in the application of any such Ordinance.

Section 1-30.9 – Condition. The Board of Appeals may impose condition, 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.

1. No special permit or variance shall be granted on any lot or land not given a number by the City of Westfield; nor to any building thereon not conspicuously bearing said number so as to be seen from the street nor on any way not owned or accepted by the city that does not have a sign so identifying said way be a sign comparable in height and size as to street sign requirements of the City of Westfield.

Section 1-30.10 – Time Limits.

1. 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.

2. As provided for in Section 6 of Chapter 40A of the General Laws, construction or operations under a special permit issued by the zoning board of appeals shall conform to any subsequent amendment of this ordinance unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
 - I. As provided for in Section 9 of Chapter 40A of the General Laws, a special permit granted by the zoning board of appeals shall lapse with a time period specified by the zoning board of appeals, such time period however not to exceed more than two (2) years and including such time required to pursue or await the determination of an appeal pursuant to Section 17 of the General Laws from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.