

AAB

VARIANCE PROCESS

The following is a guide to the Architectural Access Board's variance process.

Applications are available at the AAB office, or on the website:

www.mass.gov/dps

You may also call or write to request an application form.

When applying for a variance, the Board requires the following:

1. A completed application form. (Please make sure that all questions are answered, i.e. Building permit values, assessed values, and a signature of the applicant.)
2. **A total of four (4) original packages must be created. In addition, the complete package (including plans and photographs) shall be submitted on one (1) compact disc (to be submitted to the AAB Office with the original variance application package). EFFECTIVE MARCH 1, 2010, all applicants filing for variances from 521 CMR will be required to deliver the application and all supplemental information to not only the AAB Office, but also to the Local Building Inspector**

(or State Inspector if applicable), the Local Commission on Disability, and the Local Independent Living Center that represent the city/town where the property in question is located. A list of the addresses for these entities is available through the city/town website or by calling the AAB Office. **As of February 1, 2010, the new forms will be posted on the website and all applications must be submitted on these new forms.** The new variance applications will include a "Service Notice" which will require that signatures be provided, and the form notarized, verifying that the variance application has been received by the required parties. **As of March 1, 2010, an application will not be accepted by this office without the required signatures on the "Service Notice".** The new variance applications also require that e-mail addresses be provided as an additional means of contact.

3. A check or money order, in the amount of \$50.00, which is to be made payable to Commonwealth of Massachusetts. No cash or credit cards are accepted.

(NOTE: If any of the required items are missing, the application will be returned, resulting in a delay in processing.)

When completing the application for variance, you should be aware of the following:

1. The most recent AAB Regulations were published on January 27, 2006, effective July 27, 2006. Previous regulations were issued on February 1, 2002 (effective August 1, 2002); September 1, 1996; April 1, 1982; March 3, 1977; and June 10, 1975 with amendments in January of 1985; July 10, 1987; September of 1990; January of 1992; and March 6, 1998.
2. You must request a variance for every area of your facility which does not comply with, or is not expected to comply with, the Board's regulations. Any violation of the Board's regulations, for which a variance is not granted, may be subject to fines of up to \$1,000 per day, per violation.
3. You must also submit written estimates of the costs of compliance with the variance(s) requested. If there is not enough space on the application to answer all questions completely, you may attach additional sheets as necessary.
4. The Board requires architectural drawings (in 11" x 17" format) and photographs of the facility as part of the application for variance.

What happens once the variance is received by the AAB and entered into the Variance Tracking System?

1. Once the Board receives the completed application, along with a \$50.00 check made payable to “*The Commonwealth of Massachusetts*”, it is entered in the Variance Tracking System and given a docket number. If the application is not complete, i.e. the filing fee, CD, or “Service Notice” is missing, the case will not be recorded, resulting in a delay in processing.

2. The Board meets every other Monday from 10:00 a.m. to 5:00 p.m. The hearing schedule can be found on the website. The cases that have been received will be discussed as incoming cases. The petitioners are not allowed to discuss their cases before the Board unless a hearing is scheduled. The Board discusses the incoming cases before or between scheduled hearings. All Board meetings are open to the public.

3. Preliminary decisions are made based upon the information submitted. The Board will either: 1.) Grant the variance as requested with specific conditions; 2.) Deny the variance; or 3.) Schedule a hearing for the petitioner to present his/her case.

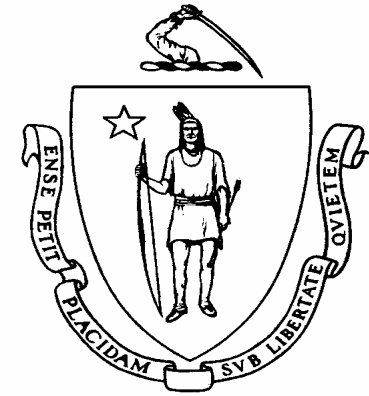
4. You may call the office on the Tuesday following a meeting to find out whether or not the Board heard your application and the decision of the Board.

Written documentation sent by the Board usually takes about two weeks from the date of the decision. The Petitioner may request that the Notice of Action be faxed.

5. If the Board grants or denies the variance without a hearing and you, or an aggrieved party, is not satisfied with that decision, you have the right to request an adjudicatory hearing before the Board. An “Adjudicatory Hearing Request Form” will be attached to the decision and is also available on the AAB Website. This form must be filed within thirty (30) days receipt of the decision of the Board.

6. If you are scheduled for a hearing on your application, you will receive a “Notice of Hearing” setting forth the day and time that your hearing will be held. It is important to note that when the Board schedules a hearing for you to appear, the Board has reserved a specific period of time for you. If the day and time are not convenient, please notify the Office as soon as possible, as the Board schedules hearings approximately 6 weeks in advance.

Remember, the burden of proof is on the applicant to prove their case. Statutorily, the Board can only grant variances if compliance with the regulations is technologically infeasible or the cost of compliance is excessive without substantial benefit to persons with disabilities.



THE VARIANCE PROCESS FACT SHEET

January 2010

**Commonwealth of Massachusetts
Department of Public Safety**

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