

**NOTE:**

**Excerpt from the Town of Holbrook Zoning By-Laws As Amended through the Special Town Meeting on October 23, 2007. For a complete, up-to-date version of the Zoning By-Laws, please contact the Town Clerk.**

**SECTION 12: APPEALS AND BOARD OF APPEALS AND PLANNING BOARD**

- 12.1 As provided by Massachusetts General Laws there shall be in Holbrook a Board of Appeals for zoning matters, which may be also the Building By-Law Board of Appeals. Such Board of Appeals shall consist of three members and three associate members, all of whom shall be appointed by the Selectmen in the manner specified in the Massachusetts General Laws. Such Board members shall have and exercise the powers available under Massachusetts General Laws.
- 12.2 The Board of Appeals shall have the following powers:
- 12.21 Appeals – To hear and decide an appeal taken by any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the Building Inspector under the provisions of General Laws, Chapter 40A or of this By-Law, by the regional planning agency or by any person including an officer or board of the Town of Holbrook or of an abutting town aggrieved by an order or decision of the Building Inspector in violation of any provisions of General Laws, Chapter 40A or of this By-Law.
- 12.22 Special Permits – To hear and decide an application for a special permit, as provided in this By-Law, only for uses in specified districts which are in harmony with the general purposes and intent of this By-Law and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards and limitations on time and use. A special permit shall lapse within a two-year period or a shorter period if so specified by the Board, including any time required to pursue or await the determination of an appeal pursuant to General Laws, Chapter 40A, Section 17, and if a substantial use thereof has not sooner commenced except for good cause or in the case of a permit for construction if construction has not begun within the period except for good cause.
- 12.23 Variances – To hear and decide a petition with respect to particular land or structures for a variance from the terms of this By-Law where the board specifically finds that owing to circumstances relating to 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 By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantially derogating from the intent or purpose of this By-Law. The Board of Appeals may impose conditions, safeguards and limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguard or limitation based upon the continued ownership of the land or structure 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 the authorization, they shall lapse and may be re-established only after a new notice and hearing.  
*Amended: ATM/May 13, 1985/Art. 19*
- 12.3 In the case of every appeal made to the Board of Appeals, every petitioner for a variance and every application for a special permit to said Board under the provisions this By-Law, the Board shall hold a public hearing thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting said notice in the Town Hall for a period of not less than fourteen (14) days before the day of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest including 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, including owners of land in another municipality all as they appear on the most recent applicable tax lists, and the Planning Board of every abutting municipality. The assessors shall certify to the Board of Appeals the names and addresses of the parties in interest.

In the case of an appeal from a decision of the Building Inspector and in case of a variance, a petition shall be filed with the Town Clerk who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the Town Clerk and shall render a decision within seventy-five (75) days from the date of filing. Failure by the Board to take final action upon a petition within the said seventy-five day period shall be deemed to be a grant of the appeal or the variance applied for.

In the case of a special permit, an application shall be filed with the Town Clerk who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within sixty-five (65) days of the filing date and shall render a decision within ninety (90) days from the date of the public hearing. Failure to take action within the said ninety (90) day period shall be deemed to be a grant of the permit applied for.

- 12.4 The Planning Board shall have the powers given to the Board of Appeals above for Site Plan Review under Subsection 10.6 the same procedures shall be followed by the Planning Board as the Board of Appeals as in 12.22 and 12.3 above. Amended: STM/May 14, 1990/Art. 30
- 12.5 The Planning Board shall consist of five (5) elected members and one (1) appointed associate member. Said appointed associate member shall be appointed annually by a majority of the Board of Selectmen and the elected Planning Board Members. A vacancy occurring for otherwise than by expiration of term shall be filled for the unexpired term in the same manner. Said appointed associate member shall have only the duties authorized by Massachusetts General Laws Chapter 40A; Section 9 related to the granting of special permits and shall sit on the board only when designated pursuant to said Chapter 40A, Section 9. *Adopted: STM/March 16, 1992/Art. 14*