

**ZONING BOARD OF APPEALS  
TOWN OF MONTEREY, MA**

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**Name of Applicant**

**Filing Fee: \$300**

Applicants, appellants, and petitioners to the Board of Appeals are advised to use this checklist to ensure that applications are properly prepared, and to avoid unnecessary procedural delays.

- q **COMPLETELY FILL IN** all information requested on the Application for Hearing, and Findings of Fact. **This information is required, and blank applications will be rejected.** PRIOR to submitting your 11 copies and starting the clock, the board strongly recommends that the applicant meet with the Planning Board, Board of Health and Conservation Commission to deal with any potential problems these boards may have and to make the application process more smooth.
- q Be sure to indicate Map and Lot numbers on the Application for Hearing. This information is available from the Monterey Assessor's records.
- q The denied Building Permit **must** accompany the application.
- q The application for Hearing must be notarized in the space provided.

**WHEN SUBMITTING YOUR APPLICATION, PLEASE INCLUDE *ELEVEN (11)\* SETS* CONTAINING EACH OF THE FOLLOWING, TOGETHER WITH THIS CHECKLIST:**

- q APPLICATION FOR HEARING
- q REQUEST FOR FINDING OF FACTS
- q SITE PLAN
- q BUILDING PLANS, INCLUDING ALL ELEVATIONS
- q DENIED BUILDING PERMIT AND ALL OTHER EVIDENTIARY DOCUMENTS

\*ONE COMPLETE SET MUST BE SENT TO THE TOWN CLERK, P.O. BOX 277, MONTEREY, MA 01245 AT THE SAME TIME YOU ARE SUBMITTING THE APPLICATION TO THE ZBA.

**NOTE: It is in the applicant's best interest to communicate directly with the town boards and officers to ensure that the required written reports are obtained before a hearing is convened. (See Monterey Zoning By-Law, Section IX.B. Powers, Duties, and Procedures). ZBA decisions rendered without required reports may be subject to legal challenge.**

**SITE PLAN must show:**

- q North arrow
- q Scale
- q Distance and bearing along bounds
- q Area in acres or SF # Acres \_\_\_\_\_ SF \_\_\_\_\_
- q Size of existing and proposed buildings (floor area in SF)



**TOWN OF MONTEREY**  
**Massachusetts 01245**

**REQUEST FOR FINDINGS OF FACT**

**Application No.** \_\_\_\_\_

**Date** \_\_\_\_\_

**Monterey Assessors Map and Lots No.:** \_\_\_\_\_

**Map**

**Lot**

**Registry of Deeds Book and Page:** \_\_\_\_\_

**Book**

**Page**

Now comes Applicant, \_\_\_\_\_

\_\_\_\_\_  
Mailing Address

Whose representative is \_\_\_\_\_ Phone \_\_\_\_\_

\_\_\_\_\_  
Address

who has applied to this Honorable Board for a Special Permit for the following reasons:

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

for property at \_\_\_\_\_, Monterey, MA.

Applicant asks that the Board make the following findings of fact:

1. That the proposed use would be in harmony with the general purpose and intent of the Zoning By-Laws for the following reason(s):

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

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2. That the specific site is an appropriate location for such use for the following reason(s):

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3. That the specific site has adequate public sewage and water facilities or suitable soil for on-lot sewerage and water systems for the following reason(s):

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4. That the proposed change would not increase the nonconforming nature of the structure, lot, and/or use:

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5. That the proposed change is not substantially more detrimental to the neighborhood than the existing nonconforming structure or use:

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6. That the proposed change would not significantly increase the incidence of air, steam, or water pollution, odor, glare, electrical interference, noises, traffic, or night operation:

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7. That the proposed change would result in a structure no more than 25% greater in total habitable square footage than the structure as it was at the time it first became nonconforming. (Total habitable SF shall not include an unenclosed deck, unfinished basement, or unfinished attic.)

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8. That the proposed change shall not cause any possible adverse impact on adjacent properties and the general neighborhood:

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**Board of Appeals  
Town of Monterey  
Application for Hearing**

**Application No.** \_\_\_\_\_ **Date** \_\_\_\_\_ **Assessor's Map #** \_\_\_\_\_ **Lot #** \_\_\_\_\_

**Nature of action or relief requested:**

- ?½Appeal from a person aggrieved (MGL Chapter 40A, Section 8)
- ?R Application for Special Permit (MGL Chapter 40A, Section 9)
- ?æPetition for a Variance from the terms of the Zoning By-Law (MGL Chapter 40A, Section 10)

**Name and Address of each appellant, applicant, or petitioner:**

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

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

The undersigned submits under oath the information and representations contained in all statements made herein for consideration by the Board in its determination of the appeal, application or petition herein, referred to hereinafter as "case".

The undersigned is the ? Owner ? holder of a written option to the land or building situated at:

\_\_\_\_\_,  
Street & House No.

Located on the \_\_\_\_\_ side of \_\_\_\_\_,  
(N, S, E or W) Street & House No.

\_\_\_\_\_ feet from the intersection of \_\_\_\_\_ and \_\_\_\_\_.  
Street Street

1. The record title to said land, which is the subject of this case, stands in the name(s) of:

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

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

2. By a Deed duly recorded in the Southern Berkshire Registry of Deeds in Book \_\_\_\_\_ Page \_\_\_\_\_

or registered in the Southern Berkshire Registry District of Land Court, Certificate No. \_\_\_\_\_

Book \_\_\_\_\_ Page \_\_\_\_\_ .

3. The said land or building is situated in a zoning district classified under the Zoning By-Law as:

\_\_\_\_\_

4. State briefly what is currently on the premises: \_\_\_\_\_

\_\_\_\_\_

5. The name and mailing address of each attorney, agent or other representative of the undersigned are as follows:

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

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

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

The undersigned hereby appeals makes application petitions the Monterey Board of Appeals as follows:

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Signature 1

\_\_\_\_\_  
Signature 2

.....  
The Commonwealth of Massachusetts

Berkshire, ss \_\_\_\_\_ 20 \_\_\_\_\_

Then personally appeared the above named and made oath and said that the foregoing statements and representations contained in the appeal, application, or petition herein and attachments hereto, are true and accurate to the best of his/her/their knowledge, information and belief, before me.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_ 20 \_\_\_\_\_

Notary Public

## Flowchart of Filings for the Monterey Zoning Board of Appeals

Anyone appealing the decision of a town board or officer to the ZBA must file application for appeal within thirty (30) calendar days of the date of the decision being appealed. Applications for special permit or variance may be brought before the ZBA at any time in relation to a building inspector's denial of building permit for reasons of zoning. Applicant must file eleven copies with the ZBA Secretary.

Of the eleven packets, one shall be filed with the Town Clerk to be date-stamped. Of the remaining ten copies, one goes to the Planning Board, one to the Board of Health, one to the Conservation Commission, and one to the Building Inspector, so that they may provide their letters to the ZBA before the hearing.

**A hearing shall then be held within sixty-five (65) calendar days after the Town Clerk receives the packet (100 days if it is not a special permit application),** and an announcement shall be made in a newspaper of general circulation once in each of two successive weeks, the first not less than fourteen (14) calendar days before the hearing. Notice must also be posted at the town offices. (Continuations need not be posted.)

All abutters to the proposed project, and all within 300 feet of the property must be notified (via certified, return-receipt-requested mail), as well as the Monterey Planning Board, and the planning boards of abutting towns.

The ZBA Secretary shall identify a few potential hearing dates and times, and notify all ZBA members and alternates by email. When five members agree to a date and time, the Secretary shall notify all ZBA members and alternates, as well as the BOH, Building Commissioner, Con Comm and Planning Board.

**A decision shall be made within ninety (90) calendar days of the date the hearing commenced** (more if the Board and applicant mutually agree). A Notice of Decision shall be filed with the Town Clerk within fourteen (14) calendar days of the decision, or within ninety (90) calendar days of the date the hearing commenced, whichever is shorter. Date and time when the Notice of Decision was received shall be certified by the Town Clerk. A copy of the Notice of Decision shall be mailed forthwith to the petitioner, applicant, or appellant, to the parties in interest (as defined in MGL Chapter 40A, §11), to the Monterey Planning Board, Board of Health, Conservation Commission and to every other person present at the hearing who requested notice.

**A decision may be appealed in court within twenty (20) calendar days from the Notice of Decision.** If no appeal is made, the Town Clerk shall so certify, and return a copy of the Notice of Decision and Notice of Recording to the ZBA secretary. The Town Clerk shall then mail the originals to the applicant, to be filed in the Registry of Deeds. Applicant must provide proof of filing with the Registry to the ZBA and Assessors.

If no decision has been made by the ZBA within ninety (90) calendar days of a hearing, the petitioner may appeal to the Town Clerk for a constructive permit within fourteen (14) calendar days of the ninety days. An appeal of a constructive permit may be made within twenty (20) calendar days of the date the Town Clerk receives the request for a constructive permit. In the event of such an appeal, notice of court decision shall be filed with the Clerk, and a constructive permit either issued or denied accordingly.

Special Permit construction, if allowed, must commence within two years.

### Notes:

- No hearing may be held on a day when a state or municipal election occurs.
- Every project must include the address, description, or other identification of the subject of the petition, as well as the date, time, and place of the hearing, and the nature of the petitioner's request.
- Final approval and request for a building permit shall include a record of filing with the Registry of Deeds, and fees paid by the petitioner.
- No negative decision of the ZBA shall be acted upon favorably within two years, except by a vote of all but one of the board and a second hearing is held.