Commonwealth of Massachusetts
Department of Conservation and Recreation

Massachusetts Watershed Protection Act
M.G.L. ch. 92A ½

Watershed Protection Regulations
350 CMR 11.00

WsPA Form 3
Application for Variance

The Watershed Protection Act (WsPA) assumes that there is a presumption that granting a Variance is contrary to the achievement of the purpose of the Act. This presumption may be rebutted only by credible evidence that granting the Variance can be done without substantial detriment to the public good and without impairment of water quality in the Quabbin Reservoir, Ware River, or Wachusett Reservoir Watersheds.

INSTRUCTIONS

USING THIS FORM

This form is used to apply for a Variance to the WsPA from the Division of Water Supply Protection (the Division) when your project is prohibited or restricted by the Act. To obtain further information, please refer to 1) "Guidance Document for Making Applications Under the Watershed Protection Act"; 2) Watershed Protection Act, Chapter 36 of the Acts of 1992; or 3) the Watershed Protection Regulations, 350 CMR 11.00. These documents are available from either office listed below or the Division's website at www.mass.gov/dcr/wspa.

FILING THIS FORM

If your property is located in **Boylston, Holden, Leominster, Paxton, Princeton, Sterling, West Boylston, or Worcester**, send your form to:

DCR, Division of Water Supply Protection
Attn: Environmental Planning
180 Beaman Street
West Boylston, MA 01583
(508) 792-7806 x314 or 250

AND

Department of Environmental Protection
CERO
8 Bond Street
Worcester, MA 01606
Attn: Marielle Stone

If your property is located in: **Athol, Barre, Hardwick, Hubbardston, New Salem, Oakham, Orange, Petersham, Phillipston, Rutland, Shutesbury, Templeton, Westminster, or Wendell,** send your form to:

DCR, Division of Water Supply Protection
Attn: Environmental Planning
485 Ware Road
Belchertown, MA 01007
(413) 323-6921 x501

AND

Department of Environmental Protection
CERO
8 Bond Street
Worcester, MA 01606
Attn: Marielle Stone

MASSACHUSETTS ENVIRONMENTAL POLICY ACT

If your Variance request consists of an Alteration, then the Massachusetts Environmental Policy Act (MEPA) requires that you file an Environmental Notification Form (ENF) with the Executive Office of Energy and Environmental Affairs. Construction of a single-family dwelling is excluded from this regulation (see 301 CMR 11.03(4)(b)(6)). The MEPA process must be completed prior to the start of the WsPA Variance review. For more information, contact the MEPA Office at (617) 626-1020 or go to www.mass.gov/envir/mepa/index.htm.

The 30 day time frame to hold a public hearing on the WsPA Variance application will not commences until the Division receives a copy of the MEPA Certificate stating that all MEPA requirements have been fulfilled and the Variance application has been deemed complete.

AFTER FILING

Public Hearing

The Division will hold a public hearing within 30 days of the Date of Submission. This date is defined as the date on which all information necessary to make the Variance Decision has been received – not necessarily the date the application has been received (see 350 CMR 11.03). Public hearings are held at Division Field Headquarters in West Boylston for projects in the Wachusett Reservoir Watershed and the Quabbin Administration Building in Belchertown for projects in the Quabbin Reservoir and Ware River Watersheds. The Division will coordinate the date and time of the hearing with the appropriate parties.

Written Decision

The Division will issue a written Variance Decision within 30 days of the close of the public hearing. If the Variance is granted, the Division may impose reasonable conditions, safeguards and limitations to protect water quality. If the Variance is denied, the Decision will contain a statement of reasons for the denial. The Decision must be recorded in the Registry of Deeds or the Land Court before it can take effect.

Appeals

If you wish to appeal the Variance Decision, you must file a Notice of Claim for an Adjudicatory Proceeding with the Commissioner and the Division within 21 days of issuance of the decision. The Division utilizes the Commonwealth's Division of Administrative Law Appeals to adjudicate an appeal. See 801 CMR 1.00 et seq. for applicable procedures.

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WsPA Form 3
Application for Variance

I. OWNER/APPLICANT/LOT IDENTIFICATION

A. Property Owner

Name:

Mailing Address:

Town: State: Zip:

Telephone Number: Fax Number:

B. Applicant/Representative

Name:

Mailing Address:

Town: State: Zip:

Telephone Number: Fax Number:

C. Lot Identification

Address:

Town: County:

Town Assessor's Sheet Number: Town Assessor's Lot Number:

Registry of Deeds Book Number: Deed Book Page Number:

II. PROJECT DESCRIPTION

A. Description of Proposed Structure, Use and/or Activity

Describe the existing lot and all proposed activities and, if applicable, any change in use, extent of expansion (e.g., number of bedrooms and square footage), land alteration, or increase in impervious area. If you are constructing a storage building or warehouse, please specify they type of material(s) and quantities that will be stored. Attach all related site plans.

B. Calculations

Where applicable, please provide the following calculations.

All Projects

Total area on the lot within WsPA jurisdiction (within 400'from the bank of a Reservoir or Tributary, within a floodplain, or over an aquifer).

Total WsPA Jurisdictional Area: _____ square feet

If Adding Impervious Surface(s)

Total Existing Impervious Area with WsPA Jurisdiction: _____ square feet
Total Proposed Impervious Area with WsPA Jurisdiction: _____ square feet

If Adding Septic System Flow

Existing Septic System Flow: _____ *(# of bedrooms or gallons per day)*
Proposed Septic System Flow: _____ *(# of bedrooms or gallons per day)*

If Altering the Primary Protection Zone

Proposed Alteration Within 200' from the Bank of a Tributary: _____ square feet

If Altering Bordering Vegetated Wetland

Proposed Alteration Within a Bordering Vegetated Wetland: _____ square feet

III. REGULATIONS

A. Jurisdiction

Check all areas where your project is located:

Primary Protection Zone

- ☐ 0-400 feet from the bank of a Reservoir
- ☐ 0-200 feet from the bank of a Tributary

Secondary Protection Zone

- ☐ 200-400 feet from the bank of a Tributary
- ☐ Floodplain
- ☐ Bordering Vegetated Wetland
- ☐ High Yield Aquifer
- ☐ Medium Yield Aquifer
- ☐ Low Yield Aquifer

B. Prohibition

Check all prohibition(s) from which you are seeking relief:

Primary Protection Zone

- ☐ Alteration, or the Generation, Storage, Disposal or Discharge of Pollutants

Secondary Protection Zone

- ☐ Impervious surface threshold of 10% or 2,500 square feet, whichever is greater
- ☐ Septic density limit of 2 bedrooms/acre or any use generating more than 220 gal/acre/day of Sewage
- ☐ Septic density limit of 1 1/3 bedrooms/acre or any use generating more than 147 gal/acre/day of sewage over a Medium Yield Aquifer
- ☐ Septic density limit of 1 bedroom/acre or any use generating more than 110 gal/acre/day of Sewage over a High Yield Aquifer
- ☐ Alteration of Bordering Vegetated Wetlands
- ☐ Disposal of Pollutants from Sewage Treatment Facility
- ☐ Leaching field less than four feet above the maximum water table
- ☐ Storage of liquid petroleum products other than as necessary for normal residential use
- ☐ Treatment, Disposal, Use, Generation or Storage of Hazardous Material or Waste
- ☐ Storage and Disposal of solid waste other than a reasonable volume incidental to normal residential use
- ☐ Outdoor Storage of road salt or other de-icing chemicals
- ☐ Outdoor Storage of fertilizers, herbicides, and pesticides
- ☐ Use or Storage of pesticides or herbicides determined by DEP or EPA to pose a groundwater threat
- ☐ Outdoor uncovered Storage of manure
- ☐ Servicing, washing or repairing boats or motor vehicles other than as reasonably incidental to normal residential use
- ☐ Operation of junk and salvage yards
- ☐ Excavation of sand and gravel less than six feet above the maximum water table, except where incidental to the construction of permitted structures
- ☐ Any other activity as determined by the Division in consultation with DEP which could degrade water quality

For further explanations, see 350 CMR 11.04(3).

IV. ADDITIONAL REQUIRED INFORMATION

A Variance may be granted by the Division after considering site specific characteristics such as soil condition, slope, and topography, as well as mitigation measures. The application for Variance shall include detailed information regarding the factors stated in 350 CMR 11.06(3)(a). The Division may ask for the following data regarding each site factor.

A. Soil Conditions

- A map of the project site prepared at a minimum scale of 1"=100' with NRCS soil types.
- Site specific soils data, such as borings, test pits and percolation tests, including copies of all field logs, notes, observations, conclusions, and test methods employed.
- An analysis of the soil characteristics of erodibility and permeability. Permeability should be described in terms of percolation rate measured as minutes per inch.

B. Slope

- A map of the project site prepared at a minimum scale of 1”=100’ depicting ground slope and expressed as percent slope.
- If a stream is present on the project site, then the average slope of the stream measured as the change in elevation divided by the distance in stream miles from the upstream point at the property line to the downstream point at the property line.

C. Topography

- A topographic plan of the project site prepared at a minimum scale of 1”=100’ prepared and stamped by a professional surveyor or engineer licensed in Massachusetts showing:
  - Contour elevations at two foot intervals or less.
  - Locations of all groundwater, soil and percolation tests.
  - Distances from all mapped and unmapped streams, bordering vegetated wetlands and water bodies.
- A cross-section showing the depth to the maximum annual high ground water table and the depth to ledge or refusal.

D. Mitigating Measures

Fully describe all mitigation measures (e.g., stormwater management or alternative septic systems), including all engineering plans and supporting data.

Additional materials may be necessary in order for the Division to make a decision. The Division will contact you if additional information is required.

V. STATEMENT OF NO EFFECT

Describe, in narrative form, how the project will not result in substantial detriment to the public good and impairment of the quality of water in the watershed. This narrative should be a summary of how the site characteristics and/or mitigation described in Section IV will protect water quality.

VI. CERTIFICATION

Please read the following statement and sign below.

I certify that the information provided on this form and in all attachments is correct and accurate to the best of my knowledge. I understand that the Division of Water Supply Protection, Office of Watershed Management staff may, at reasonable times, inspect my property for the purposes of confirming information given here and for determining the impact of this proposal on water quality.

In compliance with section (11.06(1)(a)) of the Regulations a **Variance Decision may only be issued to a person Owning an Interest in Real Property**.

Signature: _____Date:_____
(Property Owner)

If you are not the property owner, please attach a statement and signature from the owner granting the applicant permission to seek this Decision on his or her behalf and sign below.

Signature: _____Date:_____
(Applicant)

Please note that the granting of a Variance Decision from the provisions of the Watershed Protection Act does not relieve the applicant of the duty to obtain any other required state, federal, or local permits or variances. Where applicable it will still be necessary to obtain wetlands permits, Title 5 approvals, 401 water quality certifications, storm water permits (including the development of a Storm Water Pollution Prevention Plan), and any local zoning acceptances.