Variances—Massachusetts General Laws, Ch. 40A

A petition for a variance is filed with the City/Town clerk, and a certified copy filed with the PGA, by the petitioner.

Within **65 days** of the petition filing (Unless extended by written agreement between the PGA & petitioner that has been filed with the City/Town Clerk)

The PGA holds a public hearing

*The hearing may be continued over the span of multiple meetings

Within **100 days** Of the petition filing (Unless extended by written agreement between the PGA & petitioner that has been filed with the City/Town Clerk)

The PGA reaches a decision (variances require a 2/3 vote of a board with more than 5 members, 4 members of a 5 member board, and unanimous vote of a 3 member board)

Within **14 days** of the PGA decision

The decision and records of proceedings must be filed by the PGA with the City/Town Clerk, and mailed to parties of interest

Within **20 days** of the decision filing

Appeals must be filed with the City/Town Clerk.

*Construction may begin if an appeal is filed, but will be at the petitioners own risk.

After **20 days** of the decision filing have passed

The permit decision is filed by the City/Town Clerk with the Registry of Deeds (recording cost paid by the petitioner)

City/Town Clerk issues a certificate stating the date of decision, that no appeal was filed, or that the appeal was dismissed or denied.

1 year After the decision recording

Rights granted by the variance expire if not exercised. (Can be extended for up to an additional 6 months by written agreement between the PGA & petitioner, if petitioner applies for an extension before the end of 1 year.)

Prior To the hearing

Notice of the hearing is mailed to parties of interest.

At least **14 days** Before hearing

The hearing is advertised in the newspaper and posted in the town hall. Notice is mailed to certified abutters and parties of interest.

The next successive week following the first notice

The hearing is again advertised in the newspaper

If a decision is not reached by the PGA within 100 days

Within **14 days** of the 100th day

The petitioner notifies the City/Town Clerk and parties of interest that the SPGA did not act.

Within **20 days** of City/Town Clerk notification

Appeals must be filed with the City/Town Clerk.

*Construction may begin if an appeal is filed, but will be at the petitioners own risk.

After **20 days** Of City/Town Clerk notification have passed

City/Town Clerk issues certificate stating that PGA did not act and that constructive approval is granted

If a petition results in an unfavorable decision, a favorable decision on the same petition cannot be reached within 2 years.

Berkshire Regional Planning Commission

Disclaimer: Developed as an informal guide for permit granting agencies with information current as of September, 2007. It has been transmitted for informational purposes only, and its content should not be construed as legal advice. Please consult legal counsel before taking any action on this information. Please consult MGL C40A §10-16 for more detailed information.