

Suggested Outline to follow when drafting Zoning Decisions

- I. **Give your decision an appropriate title.**
 - A. "Findings and Decision" is recommended
- II. **Create an introductory section** that sets out in summary fashion all of the pertinent information at the beginning of the decision.
 - A. State name and address of applicant
 - B. Identify zoning relief sought with reference to pertinent sections of zoning by-law or ordinance
 - C. Include a brief description of project
 - D. List property address and zoning district
 - E. List dates of the public hearing
 - F. Identify board members sitting on application
 - G. State the decision and the tally of the vote on the application
- III. **Findings:** This is the key section of the decision that identifies governing standards of your review and your findings for the applicant's project in relation to these standards.
 - A. **General findings**
 1. Description of the property including size and any pertinent physical features
 2. Description of abutting properties and neighborhood
 3. Detailed description of the project as proposed by the applicant
 4. Identify pertinent submissions such as expert testimony and key presenters
 - B. **The applicable law and decision criteria**
 1. In the case of a variance, list the statutory criteria in General Laws Chapter 40A, section 10
 2. In the case of a special permit, list the statutory criteria in General Laws Chapter 40A, section 9, and the criteria in the local zoning by-law or ordinance
 3. In the case of an appeal, set out the issue which you have been asked to decide and include references to the applicable provisions of the General Laws Chapter 40A and the local zoning by-law or ordinance

C. Specific Findings

1. With respect to all the criteria noted above, write out your findings in detail. Refer to written materials and oral testimony offered either in support of or in opposition to the project at the public hearing. This is the single most important section of the decision which, on appeal, will be subject to the greatest judicial scrutiny. This part of the decision must be well conceived and clearly organized.

IV. Decision of the Board

- A. Restate the disposition by the board of the application whether it be a grant, denial or grant with conditions.
- B. Conditions
 1. Any conditions agreed to by the applicant or imposed by the board should be spelled out clearly and in detail. Conditions must be should be clear in order to avoid future enforcement issues and disputes as to the meaning of the condition.
 2. Conditions may relate to on-site or off-site matters. Conditions are typically crafted to mitigate the impact of the project on the neighborhood. For example, conditions may include either road or intersection improvements, landscaping plans or lighting specifications.
 3. Conditions may place limits on the use of the property or project. For example, the size of the building or hours of operations can be limited.
 4. Conditions may place limits on time frames. As matter of law, variances run with the land (are permanent) unless the decision states otherwise. Variances may not, however, include the continuation of the applicant's ownership of the property as a condition. Variances may limit uses to a certain number of years or certain time(s) of the year. Special permits may be limited to a certain number of years, certain times of the year, be made personal to the applicant's ownership or unlimited as to time. In all events, time limitations should be specifically and unambiguously stated.
 5. Conditions may reference the need of the applicant to obtain other permits or approvals.
 6. In the case of a variance, a condition may identify the work necessary to constitute the exercise of the variance in order to avoid questions whether the variance was exercised timely (within one year unless otherwise extended by six months).

7. In the case of a special permit, a condition may identify the work necessary to constitute substantial use of the permit in order to eliminate questions whether the permit has lapsed (after two years). This is particularly important in projects involving multiple phases of work.

V. Signature block

- A. Set up location for execution of the decision by the board members or chairperson on behalf of the board

VI. Date of filing of decision

- A. Set up location to indicate the date of the filing of the decision with the Municipal Clerk.

VII. Notice of appellate rights

- A. Include paragraph explaining time period within which appeals must be taken and to which courts

Citizen Planner Training Collaborative, February 2002

www.umass.edu/masscptc

masscptc@oitunix.oit.umass.edu