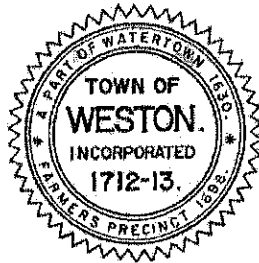


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ZONING BOARD OF APPEALS

HEARING NOTICE

Notice is hereby given that the Board of Appeals of the Town of Weston will hold an online public hearing on **June 9, 2022 at 1 p.m.** regarding Zoning Board of Appeals rules revisions, updating advertising fees and notification requirements.

Pursuant to Chapter 20 of the Acts of 2021, which includes an extension of Governor Baker's March 12, 2020 Order Suspending Certain provisions of the Open Meeting Law, G.L. c. 30A, §18, this meeting will be held via an online meeting platform. No in-person attendance of members of the public is available but every effort will be made to ensure that the public can adequately access the proceedings in real time including a dial-in option. The website link for the virtual meeting will be provided on the Zoning Board of Appeal's Agenda posted on the Town's website (www.weston.org) at least 48 hours prior to the meeting or you may email geary.v@westonma.gov for the agenda to be emailed to you.

By: Jane Fisher Carlson, Chair

Board of Appeals, Town of Weston

Board of Appeals Members: Carlson, Rose, Larocque, Sawyer

Valerie B. Geary, Administrator

Weston Board of Appeals

Pursuant to the foregoing notice, the Board held a public hearing on June 9, 2022, at 1:00 P.M., via Zoom video. The following members were present:

- Jane Carlson, Chair and Acting Secretary
- Alan Rose, Jr.
- Steven Larocque
- Natalie Sawyer

Minutes of Discussion: Change to ZBA Hearing Application Fees

Because the Weston Town Crier no longer produces a print newspaper, the Zoning Board of Appeals (ZBA) must still publish notices of upcoming hearings in a newspaper "of general circulation." Town Counsel has advised the Board that only the Boston Globe and the Boston Herald would be considered to be newspapers "of general circulation" for the Town of Weston.

The Town Crier's municipal advertising fee was \$50 for the required two-week publication run. The Globe's fee for a similar run would be \$1200, while the Board has been told that the Herald would charge the Town \$470. Clearly, the Herald is a better "deal," but the consequences for individual ZBA petitioners would be substantial if the Board were to add even that lower rate to its application fees.

A mechanical application of the Herald's publication price results in the following fees: Currently, the cost of an application for a residential variance, special permit, or appeal is \$200. Keeping administrative costs the same and adding \$420 (\$470-\$50) for advertising to this amount results in a fee of \$620. Similarly, the cost of a commercial variance, special permit, or appeal would rise from \$300 to \$720. Assuming that a 40B hearing would only require a 2-week municipal advertisement, the fee would go from \$2,000 to \$2,420.

The Board felt strongly that a fee of \$620 for residential variances, special permits, and appeals would be unduly burdensome on applicants, particularly if a special permit were requested for relatively minimal changes. The Board receives relatively few applications for commercial variances, special permits, or appeals. An increase of \$470 for a 40B Comprehensive Permit would be relatively small compared with the overall application fee.

Ms. Sawyer noted that municipal advertising fees for ZBA applicants in some neighboring towns were substantially lower than these potential fees would be in Weston. She volunteered to contact someone in the Massachusetts Attorney General's Office (AGO) to see if they had encountered similar publication issues in communities like ours and, if so, if they could suggest alternatives to a strictly mechanical approach.

Board members considered ways of mitigating the cost of ZBA applications for residential petitioners. One suggestion would be to charge each petitioner a percentage, say one-third (in this case, about \$160), of the total advertising cost and to "bundle" the notices for up to three hearings into each advertisement as frequently as possible. The Board asked Staff Assistant Valerie Geary to look into the cost of adding more lines of advertising if each notice were to include up to three hearings. While this might not be possible in every case, the shortfall in the Board's budget might be reduced.

The Board also considered other approaches such as: (1) having a graduated fee structure for residential (and commercial) applications, so that the fee for a variance would be higher than one for a special permit, and the fee for an appeal would be the most expensive, and (2) investigating whether or not the Town had the ability to use some of the administrative fees from 40B applications to help defray residential (and commercial) advertising fees.

The Board decided to continue the hearing until it had a chance to investigate alternatives with the AGO and to ask John Field to continue conversations with Leon Gaumond and Charles Young about other reasonable approaches to this matter.

The hearing was continued until Wednesday, July 6th at 7 p.m. via Zoom.

July 6, 2022

Board Members Present: Carlson, Li, Larocque, Sawyer

The Board reviewed the current fee structure for ZBA hearing applications: \$200 for a residential hearing for variances, special permits, or appeals; \$300 for a commercial hearing for a variances, special permits, or appeals; and \$2,000 + \$100/unit for 40B applications.

With the loss of the print edition of the Weston Town Crier, publication fees for upcoming hearing notices have risen from \$50 to over \$400 for publication in the Boston Herald.

Ms. Sawyer reported that she contacted the AGO regarding issues related to raising the fees and publication options for hearing notices. She stated that they discussed two different paths:

1. Long Term Plans: Legislation was filed last year by Rep. Peisch regarding changes to the State's rules for publication of municipal public hearing notices. However, the legislation did not move forward, and it was noted that it would not have helped Weston in this situation as it wouldn't have removed the requirement to publish in a print newspaper of general circulation.
2. Short Term Plans: The AGO said they had no issue with the idea of having different fees for different types of hearing applications, but that the Town should be able to track the cost changes in case this approach were challenged in court.

The AGO suggested that other towns are using a weekly regional advertising mailer, Action Unlimited, to meet public notice requirements. While this publication does not cover Weston, the Board agreed to see whether a similar publication included Weston in its coverage.

The Board also considered whether 40B application fees might bear at least a part of the cost increase for residential or commercial hearings.

As noted above, the Town has decided to use the Boston Herald for all municipal advertising. Ms. Geary informed the Board that it currently costs approximately \$466 to advertise one hearing for the required two weeks in the Herald. If three hearings could be "bundled" into one advertisement, the cost would be approximately \$195 per hearing. Currently, the \$50 advertising fee for residential and commercial applications results in a significant shortfall to the Board's overall budget.

The Board discussed the option of significantly reducing the word count of the published hearing notice in order to reduce costs. One way to achieve this would be to provide minimal wording in the notice with (1) a link to a more detailed web page on the Town's website, as well as (2) a phone number allowing individuals without access to the internet to call the ZBA's staff assistant for additional information. Ms. Sawyer agreed to send a sample of such a hearing notice to the AGO to see if they would approve this way of advertising a hearing. The Board agreed that if the AGO approved of this method, it would then forward the sample hearing notice to Town Counsel for its consideration.

Ms. Carlson also agreed to contact Mr. Field to determine whether the Town's representative(s) on the Massachusetts Municipal Association (MMA) might assist the Board in finding a more economical way to publish its required notifications.

In the interim, in order to avoid a large increase in the Board's current advertising shortfall, the Board suggested raising both residential and commercial fees for special permits, variances, and appeals by \$200 to cover the increased publication costs, at least to some degree. It was noted that not all hearings could be bundled, but that bundling would be implemented whenever possible. The Board also noted that this fee increase could be revisited at any time if the fees did not cover actual advertising costs or if a more economical approach to publishing the required notifications were developed.

DECISION

Following due and open deliberation, the Board, by unanimous decision (Carlson, Li, and Larocque voting), voted to amend the ZBA hearing application form with the following fees for residential and commercial hearing applications:

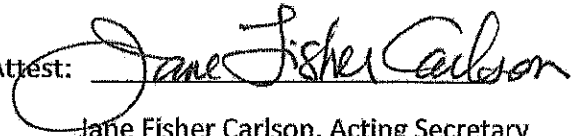
- \$400 for a residential hearing for a variance/special permit/appeal
- \$500 for a commercial hearing for a variance/special permit/appeal

There was no change to the 40B hearing application fees.

The hearing application form will be updated to reflect the new fees.

A True Record

Attest:



Jane Fisher Carlson, Acting Secretary

Weston Board of Appeals