



Variance Deadlines (G.L. c.40A, §10, §11 and §15)

Day 1	Applicant submits an application to the Town Clerk. Applicant has application stamped and files a certified copy with ZBA. G.L. c.40A, §15.
Schedule the public hearing to open within 65 days	ZBA <u>shall</u> schedule a public hearing that opens within 65 days of the certified filing date of the application and mail notices to certified abutters and all parties in interest. G.L. c.40A, §15.
Advertise twice and post, beginning at least 14 days before the public hearing	ZBA <u>shall</u> publish notice of the public hearing in a newspaper of general circulation twice and post notice in a conspicuous place in Town Hall, beginning at least 14 days prior to the public hearing date. G.L. c.40A, §11.
In the following calendar week, advertise again	ZBA <u>shall</u> publish the second notice of the public hearing in a newspaper of general circulation. G.L. c.40A, §11.
65 days to open the hearing, unless there is an extension	ZBA <u>shall</u> open the public hearing on the application, within the 65 days, <u>unless</u> there is a written extension in hand from the applicant. G.L. c.40A, §15.
100 days from submittal of the application, to render the decision	ZBA <u>shall</u> render a decision on the application within 100 days of receipt of the application, <u>unless</u> there is a written extension in hand from the applicant. ZBA <u>shall</u> file any extension with the Town Clerk, <i>forthwith</i> . G.L. c.40A, §15.
14 days of the decision, to file decision	ZBA <u>shall</u> submit a detailed record of its proceedings and its variance decision to the Town Clerk and mail notice of the decision to the applicant, owner, parties in interest, and to every person present at the hearing who requested that notice be sent, within 14 days. G.L. c.40A, §15; <u>Burnham v. Hadley</u> , 58 Mass.App.Ct. 479 (2003).
20 days after the decision is filed with Town Clerk	Any judicial appeal shall be made within 20 days after the decision is filed with the Town Clerk and a notice of the appeal shall be filed with the Town Clerk. G.L. c.40A, §15 and §17.
Town Clerk issues a certificate upon request	Upon request, if there is no appeal, the Town Clerk shall issue a certificate stating the date of the approval of the variance (or if there was an appeal, the Town Clerk shall issue a certificate after receipt of court certified records that the appeal was favorably adjudicated). G.L. c.40A, §11.
Variance has to be recorded	Variance must be recorded within one year. G.L. c.40A, §10 and §11.



Constructive Approval of a Variance:

If ZBA Fails to Act on Variance Application Within 100 Days

Day 101	100 full days passed from the date the application was filed with the Town Clerk and ZBA, and ZBA failed to act ¹ or obtain an extension of time to act, a constructive grant may be claimed. G.L. c.40A, §15.
101 days, plus 14 days	Applicant claiming a constructive grant shall send notice of the claim to the Town Clerk within 14 days of the expiration of the 100 days and send notice to parties in interest, by mail, and notify parties that an appeal must be filed within 20 days of the constructive grant claim notice. G.L. c.40A, §15.
20 days after notice of no action is filed with the Town Clerk, to file an appeal	Within 20 days after the applicant files a constructive grant claim with the Town Clerk, any judicial appeal of the constructive grant claim shall be filed and notice of the appeal shall be filed with the Town Clerk. G.L. c.40A, §15 and §17.
After 20 days, if no appeal is filed	If no appeal from the constructive grant notice is taken within 20 days, then the Town Clerk shall issue a certificate of constructive grant (or if there was an appeal, the Town Clerk issues a certificate after receipt of certified records of the court in which such constructive grant claim was favorably adjudicated). G.L.c.40A, §15.
Must be recorded	No constructive grant of a variance takes effect unless the certificate of constructive grant is duly recorded. G.L. c.40A, §11.

¹ Failure to act, is a failure to decide or vote on an application for a variance. Burnham v. Hadley, 58 Mass.App.Ct. 479 (2003). If the ZBA has acted within 100 days, the ZBA has an additional 14 days to file the written decision with the Town Clerk, and the applicant cannot claim a constructive approval. Id.



Zoning Appeal Deadlines

(G.L. c.40A, §8, §15 §17)

Day 1	Order/decision of an administrative official (e.g. Building Inspector).
30 days	Applicant shall submit any appeal to the Town Clerk and file a certified copy with the official whose decision is being appealed, and with the ZBA, within 30 days. G.L. c.40A, §15, ¶1.
Schedule the public hearing to open within 65 days	ZBA <u>shall</u> schedule the public hearing to open within 65 days of the date of the filing of the appeal and mail notice to certified abutters and all parties in interest. G.L.c.40A, §15.
Advertise twice and post, beginning at least 14 days before the public hearing	ZBA <u>shall</u> publish notices in the newspaper and post in Town Hall, beginning at least 14 days before the hearing. G.L. c.40A, §15.
In the following calendar week, advertise again	ZBA <u>shall</u> publish a second notice in the newspaper.
65 days to open the public hearing, unless there is an extension	ZBA <u>shall</u> open the public hearing on the appeal within 65 days, <u>unless</u> there is a written extension in hand from the appellant. G.L. c.40A, §15.
100 days from submittal of the appeal to render the decision	ZBA <u>shall</u> render a decision within 100 days of receipt of the appeal, <u>unless</u> there is a written extension in hand from the appellant. ZBA <u>shall</u> file any extension with the Town Clerk, <i>forthwith</i> . G.L. c.40A, §15.
14 days of the decision, to file decision	ZBA <u>shall</u> submit a detailed record of its proceedings and the decision to the Town Clerk and mail notice of the decision to the appellant, parties in interest, and to every person present at the hearing who requested that notice be sent, within 14 days. G.L. c.40A, §15; <u>Burnham v. Hadley</u> , 58 Mass.App.Ct. 479 (2003).
20 days after the decision is filed with Town Clerk to appeal	Any judicial appeal shall be made within 20 days after the date the decision is filed with the Town Clerk and a notice of the appeal shall be filed with the Town Clerk. G.L. c.40A, §15 and §17.
Town Clerk issues a certificate upon request	Upon request, if there is no appeal, the Town Clerk shall issue a certificate stating the date of the approval of the appeal (or if there was an appeal, the Town Clerk shall issue a certificate after receipt of court certified records that the appeal was favorably adjudicated). G.L. c.40A, §11.



Constructive Grant of a Zoning Appeal

If the ZBA Fails to Act on a Zoning Appeal Within 100 Days

Day 101	100 full days passed from the date the appeal was filed with the Town Clerk and ZBA, and ZBA failed to act ² or obtain an extension of time to act, a constructive grant may be claimed. G.L. c.40A, §15.
101 days, plus 14 days	Appellant claiming a constructive grant shall send notice of the claim to the Town Clerk within 14 days of the expiration of the 100 days and send notice to parties in interest, by mail, and notify parties that an appeal must be filed within 20 days of the constructive grant claim notice. G.L. c.40A, §15.
20 days after notice of no action is filed with the Town Clerk, to file an appeal	Within 20 days after the appellant files a constructive grant claim with the Town Clerk, any judicial appeal of the constructive grant claim shall be filed and notice of the appeal shall be filed with the Town Clerk. G.L. c.40A, §15 and §17.
After 20 days, if no appeal is filed	If no appeal from the constructive grant notice is taken within 20 days, then the Town Clerk shall issue a certificate of constructive grant (or if there was an appeal, the Town Clerk issues a certificate after receipt of certified records of the court in which such constructive grant claim was favorably adjudicated). G.L.c.40A, §15.

² Failure to act, is a failure to decide or vote on appeal of administrative official. Burnham v. Hadley, 58 Mass.App.Ct. 479 (2003). If the ZBA has acted within 100 days, the ZBA has an additional 14 days to file the written decision with the Town Clerk, and the applicant cannot claim a constructive approval. Id.



Special Permit Deadlines

(G.L. c.40A, §9)

Day 1	Applicant submits an application to the Town Clerk and has it stamped and then files a certified copy with the special permit granting authority (SPGA). G.L. c.40A, §9.
Schedule the public hearing to open within 65 days	SPGA <u>shall</u> schedule a public hearing that opens within 65 days of the certified filing date of the application and mail notices to certified abutters and all parties in interest. G.L. c.40A, §9.
Advertise twice and post, beginning at least 14 days before the public hearing	SPGA <u>shall</u> publish notice of the public hearing in a newspaper of general circulation twice and post notice in a conspicuous place in Town Hall, beginning at least 14 days prior to the public hearing date. G.L. c.40A, §11.
In the following calendar week, advertise again	SPGA <u>shall</u> publish the second notice of the public hearing in a newspaper of general circulation. G.L. c.40A, §11.
65 days to open the hearing, unless there is an extension	SPGA <u>shall</u> open the public hearing on the application, within the 65 days, <u>unless</u> there is a written extension in hand from the applicant. G.L. c.40A, §9.
90 days from close of the public hearing to render the decision	SPGA <u>shall</u> make a decision within 90 days of the close of the public hearing, <u>unless</u> there is a written extension in hand from the applicant. G.L. c.40A, §9; <u>Kenrick v. Board of Appeals of Wakefield</u> , 27 Mass. App. Ct. 774, 775 (1989). ZBA <u>shall</u> file any extension with the Town Clerk, <i>forthwith</i> . G.L. c.40A, §9.
14 days of the decision, and 90 days from the close of the public hearing, to file decision	SPGA <u>shall</u> submit its detailed record of proceedings and the decision to the Town Clerk and mail notice of the decision to the applicant, parties in interest, and to every person present at the hearing who requested that notice be sent, within 14 days. G.L. c.40A, §9. <u>However</u> , this must also occur within 90 days from the close of the public hearing. <u>Elder Care Services, Inc. v. ZBA of Hingham</u> , 17 Mass.App.Ct. 480 (1984).
20 days after the decision is filed with Town Clerk	Any judicial appeal shall be made within 20 days after the decision is filed with the Town Clerk and a notice of the appeal shall be filed with the Town Clerk. G.L. c.40A, §17.



Constructive Grant of a Special Permit :
If the SPGA Fails to Act on a Special Permit Application Within 90 Days

Day 91	90 full days have passed from the close of the public hearing and the SPGA failed to act, ³ a constructive grant may be claimed. G.L. c.40A, §9.
91 days, plus 14 days	Applicant claiming a constructive grant shall send notice of the Town Clerk within 14 days of the expiration of the 90 days and send notice to parties in interest, by mail, and notify parties that an appeal must be filed within 20 days of the constructive grant claim notice. G.L. c.40A, §9.
20 days after notice of no action is filed with the Town Clerk, to file an appeal	Within 20 days after the applicant files a constructive grant claim with the Town Clerk, any judicial appeal of the constructive grant claim shall be filed and notice of the appeal shall be filed with the Town Clerk. G.L. c.40A, §9 and §17.
After 20 days, if no appeal is filed	If no appeal from the constructive grant notice is taken within 20 days, then the Town Clerk shall issue a certificate of constructive grant (or if there was an appeal, the Town Clerk issues a certificate after receipt of certified records of the court in which such constructive grant claim was favorably adjudicated). G.L.c.40A, §15.

³ The SPGA must take “final action” within 90 days from the close of the public hearing. Voting on a decision and filing a decision, which sets forth the vote of the SPGA, with the Town Clerk’s office, constitutes “final action.” Board of Alderman of Newton v. Maniace, 429 Mass. 726 (1999).



Deadlines for ANR Plans
(G.L. c.41, §81L and 81P)

Day 1	Applicant submits an ANR plan to the Planning Board, and under G.L. c.41, §81T, gives notice of the submission of the plan to the Town Clerk. G.L. c.41, §81P.
Within 21 days	Planning Board <u>shall</u> either endorse the ANR plan or determine that the plan needs approval under the Subdivision Control Law and the Planning Board <u>shall</u> provide written notice to the applicant and the Town Clerk of the determination. G.L. c. 41, §81L and §81P.
If no action within 21 days	If the Planning Board fails to act within 21 days (and notice of submission was previously given to the Town Clerk), then the plan is deemed not to require approval under the Subdivision Control Law and the Planning Board shall endorse the plan and, if it fails to do so, the Town Clerk shall issue a certificate to the same effect. G.L. c.41, §81P.



Deadlines for Nonresidential Subdivision, where there was a Preliminary Plan (G.L. c.41, §81S and §81U)

Day 1	Applicant who submitted a preliminary plan 45 or more days earlier, submits to the Planning Board and the Board Of Health, with written notice to the Town Clerk, a nonresidential subdivision plan . G.L. c.41, §81U.
45 days for Board of Health report	Board of Health has 45 days from submission of the definitive plan to make a report to the Planning Board (and failure to report is approval by the Board of Health of the definitive plan). G.L. c.41, §81U.
90 days for Planning Board to open the public hearing	Planning Board <u>shall</u> schedule and hold the public hearing for a date within 90 days of the date of the submittal of the plan and act upon the plan. G.L. c.41, §81U.
Advertise twice and post, beginning at least 14 days before the public hearing	Planning Board <u>shall</u> publish notice of the public hearing in a newspaper of general circulation twice, beginning at least 14 days prior to the public hearing date, and mail notice to the applicant and certified abutters. G.L. c.41, §81T.
In the following calendar week, advertise again	Planning Board <u>shall</u> publish the second notice of the public hearing in a newspaper of general circulation. G.L. c.41, §81T.
Day of scheduled hearing	Planning Board opens the public hearing.
90 days from submittal of the definitive plan, to render the decision	The Planning Board <u>shall</u> take final action on the definitive nonresidential subdivision plan within 90 days after submission of the definitive plan, <u>unless</u> there is a written extension that is filed with the Town Clerk, or the plan shall be constructively granted. G.L. c.41, §81U.



Deadlines for Residential Subdivision, where there Was a Preliminary Plan (G.L. c.41, §81S and §81U)

Day 1	Applicant who submitted a preliminary plan 45 or more days earlier, submits to the Planning Board and the Board of Health, with written notice to the Town Clerk, for a residential subdivision plan . G.L. c.41, §81U.
45 days for Board of Health report	Board of Health has 45 days from submission of the definitive plan to make a report to the Planning Board (and failure to report is approval by the Board of Health of the definitive plan). G.L. c.41, §81U.
90 days for Planning Board to open the public hearing	Planning Board <u>shall</u> schedule and hold the public hearing for a date within 90 days of the date of the submittal of the plan and act upon the plan. G.L. c.41, §81U.
Advertise twice and post, beginning at least 14 days before the public hearing	Planning Board <u>shall</u> publish notice of the public hearing in a newspaper of general circulation twice, beginning at least 14 days prior to the public hearing date, and mail notice to the applicant and certified abutters. G.L. c.41, §81T.
In the following calendar week, advertise again	Planning Board <u>shall</u> publish the second notice of the public hearing in a newspaper of general circulation. G.L. c.41, §81T.
Day of scheduled hearing	Planning Board opens the public hearing.
90 days from submittal of the definitive plan, to render the decision	The Planning Board <u>shall</u> take final action on the definitive residential subdivision plan within 90 days after submission of the definitive plan, <u>unless</u> there is a written extension that is filed with the Town Clerk, or the plan shall be constructively granted. G.L. c.41, §81U. The Planning Board <u>shall</u> file any extension with the Town Clerk, <i>forthwith</i> .



Deadlines for Residential Subdivision, where there Was NO Preliminary Plan (G.L. c.41, §81S and §81U)

Day 1	Applicant submits a residential subdivision definitive plan but there was no preliminary plan.
45 days for Board of Health report	Board of Health has 45 days from submission of the definitive plan to make a report to the Planning Board (and failure to report is approval by the Board of Health of the definitive plan). G.L. c.41, §81U.
135 days for Planning Board to open the public hearing	Planning Board <u>shall</u> schedule and hold the public hearing for a date within 135 days of the date of the submittal of the plan and act upon the plan. G.L. c.41, §81U.
Advertise twice and post, beginning at least 14 days before the public hearing	Planning Board <u>shall</u> publish notice of the public hearing in a newspaper of general circulation twice, beginning at least 14 days prior to the public hearing date, and mail notice to the applicant and certified abutters. G.L. c.41, §81T.
In the following calendar week, advertise again	Planning Board <u>shall</u> publish the second notice of the public hearing in a newspaper of general circulation. G.L. c.41, §81T.
Day of scheduled hearing	Planning Board opens the public hearing.
135 days from submittal of the definitive plan, to render the decision	The Planning Board <u>shall</u> take final action on the definitive residential subdivision plan within 135 days after submission of the definitive plan, <u>unless</u> there is a written extension that is filed with the Town Clerk, or the plan shall be constructively granted. G.L. c.41, §81U. The Planning Board <u>shall</u> file any extension with the Town Clerk, <i>forthwith</i> .



Comprehensive Permit (G.L. c.40B, §21)

Day 1	Applicant submits application to the ZBA, and ZBA notifies applicable local boards within 7 days. 760 CMR 56.05(3).
30 days to open the public hearing	ZBA shall within 30 days of receipt of a complete application open the public hearing. G.L. c.40B, §21; 760 CMR 56.05(3). But , even if the application is not complete, the public hearing should be noticed and advertised and opened within 30 days, unless there is a written extension from the applicant, to avoid litigation over whether the application is complete.
180 days to hold the public hearing	ZBA shall close the public hearing within 180 days of opening it, unless the ZBA has received a written extension from the applicant. 760 CMR 56.05.
40 days of close of the public hearing, to render a decision	ZBA shall make its decision within 40 days of the termination of the public hearing. 760 CMR 56.05(8).
14 days of the decision, to file decision	The ZBA submits a detailed record of proceedings and the decision to the Town Clerk and mails notice to the applicant, parties in interest, and to every person present at the hearing who requested that notice be sent to him. 760 CMR 56.05(8).
20 days after the decision is filed with Town Clerk to appeal	Within 20 days after the date the decision is filed, all appeals must be made. (Developer to Committee; Abutters to court of competent jurisdiction.) 760 CMR 56.05(9).
Town Clerk issues a certificate upon request	Upon request, if there is no appeal, the Town Clerk shall issue a certificate stating the date of the approval of the comprehensive permit (or if there was an appeal, then the Town Clerk issues a certificate after receipt of certified records of the court in which such appeal was adjudicated).



Appeal of a Comprehensive Permit by Developer **(G.L. c.40B, §22)**

20 days	Any appeal by a developer to the Housing Appeals Committee (Committee) shall be made within 20 days after the date of the notice of decision by the ZBA. G.L. c.40B, §22
10 days from Committee's notice of appeal	Committee notifies ZBA of the appeal and the ZBA has 10 days from that notice to give the Committee a copy of its decision. 760 CMR 56.06(4).
30 days from of termination of the hearing	Committee shall render a decision within 30 days of the termination of the hearing. 760 CMR 56.07(5).

Insubstantial Modification of a Comprehensive Permit **760 CMR 56.05(11)**

20 days	ZBA has 20 days from receipt of a modification request to determine whether the request is substantial and to notify the applicant in writing, if it is a substantial modification. 760 CMR 56.05(11)(a).
30 days to open the public hearing	If the ZBA determines there is a substantial change, then the ZBA has 30 days to notice, advertise and open a public hearing, unless there is an extension of time from the applicant. 760 CMR 56.05(11)(c).
40 days from of termination of the hearing	ZBA shall render a decision within 40 days of the termination of the public hearing on the substantial change. 760 CMR 56.05(11)(c).

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