



The Commonwealth of Massachusetts

Division of Professional Licensure Office of Public Safety and Inspections

1000 Washington Street, Suite 710

Boston, Massachusetts 02118

Phone (617) 727-3200

Fax (617) 727-1944

STATE BUILDING CODE APPEALS BOARD

FILING INSTRUCTIONS

Special Variance

New DDS/DMH Group Homes providing custodial care to 5 or fewer individuals

Variations for 780 CMR 308.3.4 (ninth edition) ONLY

Procedures outlined on the following pages shall be followed when filing a special variance application for new DDS/DMH Group homes providing custodial care for five or fewer individuals that are seeking a variance from the Ninth Edition of the Building Code, 780 CMR 308.3.4 to not install certain fire protection systems. The Board of Building Regulations and Standards has approved this process to not require a standard appeals hearing but to instead delegate approval authority to the Commissioner of the Division of Professional Licensure (or their designee). This form may not be utilized for any other purpose. So long as the application requirements have been met, a variance shall be granted in writing.

Procedures for Filing this Special Variance Application

Please follow the instructions below when completing the Application.

1. This application is for new DDS/DMH group homes providing custodial care to 5 or fewer individuals and are seeking a variance from the provisions of 780 CMR 308.3.4 (ninth edition). In accordance with Chapter 1 of the State Building Code, the applicant must obtain a denial letter from the municipal or state building official who is the authority having jurisdiction over the property in question. This may be accomplished in many ways, including most simply, by sending a letter to said official indicating that, as designed, the property would not be in compliance with 780 CMR 308.3.4 (ninth edition) and obtaining a written acknowledgement from said official. This application must be filed within **45 days** of the date of this acknowledgment (or other denial letter). If this deadline is not met, the applicant must obtain a new denial letter/acknowledgement.
2. Two documents are required to be completed by the applicant or his/her representative when filing this. (Each is part of this document.)

the *Variance Application Form* (2 pages)
and the *Service Notice* (1 page).

*****SPECIAL VARIANCE APPLICATION*****

The *Service Notice*, which gives notice to the building official that a variance is being filed, should include the date appearing and the name and address of the building official under the section titled, "PERSON/AGENCY SERVED". The *Method of Service* should list one of the following procedures as set forth in Chapter 1 of the State Building Code for serving notice to the appropriate building inspector.

- A. Personally; or
- B. Registered or Certified Mail, return receipt requested; or
- C. By any person authorized to serve civil process.

The *Date of Service* is the date when a copy of the special variance application is delivered or mailed to the building official or other party entitled on the application.

The *Service Notice* must be signed by the appellant or his/her representative and the signature must be notarized.

The **Special Variance Application Form** (2 pages) *must be completed in total* and has been prepopulated with the specific variance conditions as approved by the Board of Building Regulations and Standards. The application will be reviewed for completeness prior to a variance being granted. Applications determined to be incomplete will be returned to the applicant for correction. Questions relating to completing the application should be directed to your local building department or this office. Questions relating to the process may be directed to the Appeals Board Hearings Coordinator @ (6117) 727-3200, extension 25209.

3. *One* complete copy of the variance filing, including the *original Service Notice*, must be delivered to the noted Building Official or the official entitled. *The original Appeal Application* form, copy of the *Service Notice* and *copy* of the denial/acknowledgement letter must be submitted to this office.
4. Filing fees for this special variance have been waived at this time.



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STATE BUILDING CODE APPEALS BOARD SPECIAL VARIANCE APPLICATION FORM

DOCKET NUMBER (State Use Only)	DATE
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The undersigned hereby seeks a variance from the State Board of Building Regulations and Standards from the decision of the following person. (Please fill-in the name of the appropriate municipal or state building inspector, or other authority)

Building Official from the City/Town of:	
State Building Official:	
Other:	

STATE USE ONLY

Please take care to submit all written supporting documentation with this application to allow time for review.

The desired relief to be provided is listed below [ONLY THE RELIEF BELOW MAY BE SOUGHT WITH THIS APPLICATION, FOR ALL OTHER ISSUES, A STANDARD APPEAL APPLICATION MUST BE FILED]:

The property in question is to be utilized as a group home providing custodial services to five or fewer individuals. In lieu of being governed by Use Group R-3, said property is to be designed in accordance with 780 CMR 51.00: *The Massachusetts Residential Code*. Per 780 CMR 308.3.4, such a property must normally be equipped

*****SPECIAL VARIANCE APPLICATION*****

with a fire protection system installed in compliance with 780 CMR 903.3.1.3. The purpose of this variance request is to waive the installation of said fire protection system because:

SELECT ONE OF THE FOLLOWING:

_____ A valid license is required for the providers of custodial care in this property issued by the Department of Developmental Services which requires full compliance with the safety requirements of 115 CMR 7.00: *Standards for all Services and Supports*.

OR

_____ A valid license is required for the providers of custodial care in this property issued by the Department of Mental Health which requires full compliance with the safety requirements of 104 CMR 28.00: *Licensing and Operational Standards for Community Services*

Please complete the following section completely and accurately.

Name of Applicant:		Representing:	Owner-
Address For Service			
	Email: _____		
Telephone Number:		Fax Number:	
Address of Subject Property (if different from service address):			
What is applicant's connection to subject property?			

Signature of Applicant and/or Representative

Please Print Name Legibly

Please return applications to:
 Program Manager, Board of Appeals
 Office of Public Safety and Inspections - 1000 Washington Street, Suite 710
 Boston, MA 02118

DESCRIPTION OF BUILDING OR STRUCTURE RELATIVE TO THE MASSACHUSETTS STATE BUILDING CODE (9th EDITION):

Brief Description of the Proposed Work:

STATE BUILDING CODE APPEALS BOARD
Service Notice

I, _____, as _____ for the

Applicant/Petitioner _____ filed for a special variance

with the State Building Code Appeals Board on _____ 20_____

HEREBY SWEAR UNDER THE PAINS AND PENALTIES OF PERJURY THAT IN ACCORDANCE WITH THE PROCEDURES ADOPTED BY THE STATE BOARD OF BUILDING REGULATIONS AND STANDARDS AND SECTION 122.3.1 OF THE STATE BUILDING CODE, I SERVED OR CAUSED TO BE SERVED, A COPY OF THIS SPECIAL VARIANCE APPLICATION ON THE FOLLOWING PERSON(S) IN THE FOLLOWING MANNER:

	NAME AND ADDRESS OF PERSON OR AGENCY SERVED	METHOD OF SERVICE	DATE OF SERVICE
1			
2			
3			

Signature: Appellant or Petitioner

*****SPECIAL VARIANCE APPLICATION*****

On the _____ Day of _____ 20____ PERSONALLY APPEARED

BEFORE ME THE ABOVE NAMED _____

(Type or Print the Name of the Applicant)

AND ACKNOWLEDGED AND SWORE THE ABOVE STATEMENTS TO BE TRUE.

NOTARY PUBLIC

MY COMMISSION EXPIRES

NOTARY PUBLIC	MY COMMISSION EXPIRES	NAME AND ADDRESS OF APPLICANT