

Chapter 759: VARIANCES

§ 759-1 Authority.

The Board of Health may vary the application of any of these Board of Health rules and regulations (Division 5 of the Code of the Town of Plainville) with respect to any particular case when, in its opinion, the enforcement thereof would be manifestly unjust, considering all the relevant facts and circumstances of the individual case; and the person requesting the variance has established that an equivalent level of public health and environmental protection will otherwise be provided without strict application of the provisions for which the variance is sought.

§ 759-2 Variance criteria for new construction.

For new construction, enforcement of the provision from which a variance is sought must be shown to deprive the applicant of substantially all beneficial use of the subject property in order to be manifestly unjust.

§ 759-3 Standards for variance requests.

Every variance request shall be in writing and shall make reference to the specific regulation for which a variance is sought, and a statement which provides evidence of the conditions stated above.

§ 759-4 Notification of abutters.

No application for a variance shall be considered complete until the applicant has notified all abutters by certified mail, return receipt requested, at his/her own expense, at least 10 days before the Board of Health meeting at which the variance request will be on the agenda. The notification shall reference the specific regulation from which the variance is sought, a statement of the required standards, and the date, time and place where the application will be discussed.

§ 759-5 Documentation of decisions.

Any variance allowed by the Board of Health shall be in writing. Any denial of the variance shall also be in writing and shall contain a brief statement of the reasons for denial. When, in its opinion, it is in the public health interest, the Board may require that the variance granted be placed on record by a document filed at the Registry of Deeds.

§ 759-6 Conditions.

Any variance or other modification authorized to be made by these regulations may be subject to such qualification, revocation, suspension or expiration as the Board of Health expresses in its grant. A variance or modification authorized to be made by these regulations may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard.

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**SAMPLE LETTER**

DATE: \_\_\_\_\_ Date of hearing: \_\_\_\_\_  
Time of Hearing: \_\_\_\_\_  
ABUTTER NAME \_\_\_\_\_ Need to submit the following:  
ABUTTER ADDRESS \_\_\_\_\_ 1. Variance Fee in the amount of:  
ABUTTER ADDRESS \_\_\_\_\_ 2. 1 copy of letter to abutters  
3. Proof of mailing  
DEAR ABUTTER \_\_\_\_\_ 4. Letter to BOH requesting variance

CERTIFIED MAIL, RETURN RECEIPT

**NOTICE OF PUBLIC HEARING FOR A VARIANCE/LOCAL UPGRADE REQUEST**

The purpose of this letter is to notify abutters to {PROPERTY ADDRESS} {MAP #, LOT #,} that a public hearing is scheduled with the Plainville Board of Health to request a variance/local upgrade from the Code of the Town of Plainville, Division 5, Board of Health Regulations and/or 310 CMR 15.000, Title 5, State Environmental Code.

The hearing will be held on {DATE} at {TIME} at the Plainville Senior Center, 9 School Street, Plainville, MA. The following variance(s) is/are requested:

1. {CHAPTER #} {CHAPTER DESCRIPTION} {DESCRIPTION OF SPECIFIC REQUEST}

Sincerely,