

2016

Planning
Board of
Lunenburg

Board Rules and Regulations for Site Plan Approval & Special Permits

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SECTION 1.0. – GENERAL

Section 1.1 – Purpose:

In accordance with the General Laws of Massachusetts Chapter 40A, Section 9, the following Rules and Regulations were adopted by a 4-0 vote of the Town of Lunenburg Planning Board on June 27, 2016.

Applicants should also refer to Sections 8.3 and 8.4 of the Lunenburg Protective Bylaw. These sections list general requirements, procedures, approval criteria, public hearing and final action requirements.

Section 1.2 – Definitions:

Abutters - The owners of land located directly adjacent to a property for which an application has been filed, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the Applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town. The Lunenburg Assessor's Office or the Assessor's Office in which the abutters' property is located, shall certify the names and addresses of abutters and such certification shall be conclusive for all purposes. For purposes of Special Permit public hearing and decision notices, an abutter is a "party in interest" as defined below.

Applicant - The person who submits an application for Special Permit or Site Plan Approval and his administrators, executors, heirs, devisees, successors, and assigns. The Applicant must be owner of all land included in the application and submitted plan or proposal, or any person who shows specific written authorization by the owner to submit the application and to speak for and bind the owner as to any representations regarding the property or the owner's intent, with regard to any agreements made with the Board as part of the permit review and approval process and with regard to the owner's understanding of any conditions imposed upon the project by the Board's Special Permit decision document. Proof of ownership shall include a copy of the latest recorded deed or Land Court certificate as well as of the Lunenburg Board of Assessors' current listing for the property. The Applicant is considered a "party in interest" with regard to required public hearing and decision notices.

Building Inspector – The Building Inspector of the Town of Lunenburg.

Drainage - The control of surface water within the tract of land to be developed by any means of collecting, diverting, handling, dispersing, or disposal of surface runoff. Such control shall be designed by a registered professional engineer.

Engineer - A Registered Professional Engineer qualified to practice civil engineering in the Commonwealth of Massachusetts.

Lot - A continuous parcel of land with legally definable boundaries.

Parcel - An area of land in one ownership, with definite boundaries, which may or may not constitute a lot or group of lots available for use as the site of one or more buildings.

Parties in Interest - The Applicant, the owner of record, and abutters as defined above, the Planning Board, and the planning board of every abutting city or town. Parties in interest are legally entitled to notice of Special Permit public hearings and decisions under M.G.L. c. 40A, § 11 and the Lunenburg Zoning Bylaw.

Person - An individual, two or more individuals or a group or association of individuals, a trust, a partnership, or a corporation having common or undivided interests in a tract of land.

Project - The proposed buildings, parking, roads, utility infrastructure and so forth, that are the subject of the Special Permit or Site Plan Approval application.

Site - The entire tract on which a proposed use or development is located.

Surveyor - A Registered Professional Land Surveyor qualified to practice surveying in the Commonwealth of Massachusetts.

Tract - A continuous area of land, which may be subdivided or unsubdivided, may be crossed by roadways or streams and may be in single or multiple ownership, which is proposed for development under these Rules and Regulations.

Wetland - Land subject to the provisions of M.G.L. c. 131, § 40 and the Lunenburg Wetland Bylaw.

Zoning Enforcement Officer – The Town of Lunenburg Building Inspector.

SECTION 2.0 – ORGANIZATION

Section 2.1 – Duties of Members of the Planning Board:

The officers of the Planning Board (Board) shall be elected annually by a majority vote of the members of the Board. A majority of all regular members must vote affirmatively to elect each officer. All terms shall expire on the date of the Annual Town Election. Vacancies shall be filled in the same manner as in the case of original election.

Section 2.2 – Powers and Duties of Officers and Town Employees:

a. Chair – Meetings of the Board shall be held at the call of the Chair. Unless overruled by a majority of the Board in session at the time of meeting, s/he shall decide all points of order. In cooperation with Town employees assigned to the Board by the Town Manager, the Chair of the Board shall transact the official business of the Board, supervise the work of the Clerk, request necessary professional assistance, and exercise general supervisory powers over the day-to-day functions of the Board. The Chair may represent the Board before other Town boards, commissions, and officials. When speaking for the Board, the Chair shall only express official opinions on business that has come before the Board and for which a formal vote has been taken.

b. Vice-Chair – The Vice-Chair shall act as the Chair or the Clerk in the event the Chair or Clerk is absent or otherwise unable to perform his or her duties.

c. Clerk – Subject to the direction of the Board and its Chair, the Clerk shall supervise all of the clerical work of the Board. Clerical work shall include but not be limited to review of all correspondence, notification of all abutters required by law, review of applications for compliance with the rules of the Board, preparation of meeting minutes, posting of agendas, filing of decisions, compiling required records, maintaining necessary files and any other functions permissible by Town Bylaws and Massachusetts Law.

d. Town Employees – The Town Manager is responsible for assigning employees to provide necessary technical and professional assistance for the Board. In cooperation with the Chair and Clerk of the Board, Town Employees shall be responsible for carrying out the day-to-day functions of the Board. Employees shall perform clerical work under the supervision of the Board Clerk. Staff shall be responsible for determining those parcels of land requiring notification in accordance with applicable provisions in Chapter 40A of the Massachusetts General Laws. Subject to compliance with these regulations, staff shall prepare the application forms, checklists, instructions and draft decisions.

Section 2.3 – Hearings and Meetings:

All public hearings called by the Chair of the Board shall be to convene in the evening hours, at a time no later than 9:00 PM. Special Meetings may be called by the Chair or at the request of two members. Written notice thereof shall be given to each member at least 48 hours before the time set, except that announcement at any meeting attended by all members shall be sufficient notice of such meeting. Notices of all meetings shall be posted in accordance with current requirements of the Open Meeting Law. Meetings shall adjourn no later than 10:30 PM. If the Board wishes to extend the meeting past 10:30 PM, they must vote to do so no later than 10:29 PM.

Section 2.4 – Quorum:

A quorum of four (4) Board members for Special Permit and three (3) Board members for Site Plan Approval, shall be present at all public hearings.

Section 2.5 – Site Visits:

The Board or its members may conduct a site visit of the property that is the subject of a petition, application or appeal. No deliberation or decisions shall be made by the Board on such site visits that would be in conflict with the Open Meeting Law.

Section 2.6 – Open Meeting Law:

All official gatherings of the board including meetings and site visits shall be subject to and comply with M.G.L. C. 30a, §§ 18-25 (The Open Meeting Law).

SECTION -- 3.0 SUBMISSION PROCEDURE

Section 3.1 – Submission:

All submissions shall be made to the Planning Office during normal business hours. All materials included in Section 4 must be included for the submission to be considered complete. The applicant or their representative shall also file all application material with the Town Clerk for the submission to be considered complete. Any submission judged to be incomplete will not be scheduled for a public hearing and the time clock outlined in Section 8.4 of the Lunenburg Protective Bylaw will not begin. Applicants whose submittals are rejected for lack of information will be notified within five (5) business days of the decision.

Applicants are welcome and encouraged to schedule one or more pre-submittal meetings with the Planning Department. These meetings can be to review the submittal materials or an In-House Technical Review with other regulatory departments.

Section 3.2 – Filing Date:

All applications must be filed a minimum of twenty one (21) calendar days prior to a regularly scheduled Planning Board meeting to be heard at that meeting. Planning Board meetings are scheduled for the second (2nd) and fourth (4th) Monday of each month. Meetings are not held on Monday Holidays.

Section 3.3 – Concurrent Submissions:

a. If approval under M.G.L. c. 41, §§ 81K-81GG (Subdivision Control Law) or any other Special Permits are required from the Planning Board for the proposed project, it is strongly advised that the Applicant submit the applications for these additional permits concurrently.

b. If the proposed project requires the filing of an application for additional Special Permits or other permits in which the Planning Board is the permitting authority, many of the requirements of these Rules and Regulations may be waived in view of equivalent information required to be submitted for the additional applications. In this case, the Applicant may combine the required information and plans for the various permits, provided that all information required as part of these Rules and Regulations is included and shall provide a written statement to that effect. All application fees for the various Special Permits or other permits shall be required, unless otherwise authorized by the Board.

c. If requested by the Applicant, the Planning Board shall make every reasonable effort to coordinate its review of Special Permit and/or site plan applications with the boards, commissions, or officials that have authority over other permits and approvals required in order for the project to proceed. Such other permits and approvals may include, but are

not limited to, a Determination of Applicability or an Order of Conditions from the Conservation Commission; on-site wastewater disposal systems requiring approval under Title V from the Board of Health; Special Permits granted by the Zoning Board of Appeals; or other permit or approval from a Board or Committee not listed. Coordinated or joint public hearings may be conducted to the extent allowed by law, recognizing that each permitting authority is subject to a specific statutory decision period and not all such decision periods coincide.

Section 3.4 – Fees:

All applications shall be accompanied by a check payable to the Town of Lunenburg in accordance with the Lunenburg Planning Board Filing Fee approved October 2006 and amended from time to time.

Section 3.5 – Site Plan Waivers:

The Planning Board may, in any particular case where such action is in the public interest and not inconsistent with the intent and purpose of Rules and Regulations, waive strict compliance with its Rules and Regulations and with the requirements herein. The request for waiver shall be included within the submission requirements with a detailed description of why the waiver has been requested and if it is granted, how it would not cause a detriment to the neighborhood or the Town.

The Planning Board shall give due consideration, for waivers, to existing conditions in cases of reuse/reoccupation of existing buildings and changes of use. This consideration shall not overlook public safety.

Section 3.6 – Extension:

An applicant may request an extension to the statutory limits for the Planning Board to take action on an application in order to provide additional time to discuss issues related to an application filed pursuant to these Rules and Regulations. The request shall be made in writing giving a description of the application and plan, the date of filing, the statutory deadline for action, any previously approved extensions, the length of the requested extension and the proposed date for final action. A copy of the request for an extension together with the Board's approval for the extension shall be filed with the Town Clerk.

Section 3.7 – Review by Consultants – 53G/Project Review Fees:

a. Applicability - In addition to an application fee, the Planning Board may impose a project review fee on those applications which require, in the judgment of the Board, review by outside consultants due to the size, scale, or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate

professionals able to assist the Board and to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulation, or inspecting a project during construction or implementation.

b. Submittal - The Board, or its designee, shall inform the applicant at the pre-submittal meeting or at the time of submittal that a project review fee will be required. Project Review Fees shall be submitted to the Planning Board at the time of application to the Town Clerk and shall be deposited in an account established pursuant to M.G.L. c. 44, s. 53G (53G Account). If an applicant fails to submit the required fee, the application shall be deemed incomplete and may be considered adequate grounds to deny an application. No review work by a consultant shall commence until the fee has been paid in full.

c. Project Review Fees - The project review fees are based on the actual cost of consultants work. A deposit of two thousand dollars (\$2,000) will be due at the time of application. The Town's consultant will supply a work program/cost estimate which will be forwarded to the applicant. The balance of the funds will be due within fourteen (14) days of this submission.

d. Replenishment - When the balance in an applicant's 53G Account falls below twenty five percent (25%) of the initial Project Review Fee, the applicant shall pay an additional Project Review Fee to replenish the account. The Planning Board or its staff representative shall notify the applicant of the requirement to pay an additional fee and payment shall be made within thirty (30) days.

e. Administration of Project Review Fees – The Project Review Fee shall be deposited into a special account in accordance with M.G.L. c. 44, § 53G.

- 1) Project Review Fees shall be turned over to the Town Treasurer for deposit into a 53G Account.
- 2) A copy of the latest statement for 53G Account(s) shall be forwarded from the Treasurer to the Board each month.
- 3) The Town Accountant shall prepare a report on activity in the 53G Account on an annual basis. The report shall be submitted to the Selectmen for their review. This report shall be printed in the Annual Report for the Town.
- 4) An applicant may request a statement of his or her 53G Account including a statement of current principal and interest and a report of all deposits and payments credited to the account.
- 5) An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.

f. Excess fees in the 53G Account, including accumulated interest, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest:

- 1) With the disapproval of an application before the Board.
- 2) For approved projects, upon final inspection certifying completion of the project in accordance with the Zoning Bylaw and all conditions of approval.

g. Appeal

- 1) The choice of a consultant selected by the Planning Board for the review of an application may be appealed in writing to the Board of Selectman by the applicant, providing such appeal is initiated within two weeks of the initial selection.
- 2) The Selectmen shall convene a formal hearing within twenty (20) days of receiving a written appeal by an applicant.
- 3) In accordance with M.G.L. Chapter 44, Section 53G, "conflict of interest" and "lack of minimum required qualifications" are the only two (2) circumstances by which a consultant may be disqualified.
- 4) The required time limits for action upon an application by a municipal permit granting board shall be extended by the duration of the administrative appeal.
- 5) In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Planning Board shall stand.
- 6) Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.

h. Delinquent Accounts

- 1) All fees past due by one month from the date of invoice shall be subject to a monthly interest charge equivalent to the current rate for delinquent tax accounts.
- 2) All costs incurred by the Town of Lunenburg associated with collection of past due accounts shall be paid by the applicant.

SECTION 4.0 – SUBMISSION REQUIREMENTS

Section 4.1 – Special Permit and/or Site Plan Approval Submittal:

Materials shall be submitted in quantities of eighteen (18), unless otherwise noted. All submissions shall be collated into packets and all plan sets submitted shall be folded. Plan sets consisting of more than fifteen (15) sheets may be submitted individually rolled or in mailing tubes. A digital copy of all submission materials shall also be included.

In addition to the eighteen (18) copies submitted to the Planning Board the applicant must submit all information to the Town Clerk and the Town’s Review Engineer (if required).

The materials to be submitted are as follows:

- a. Executed Site Plan/Special Permit Application
- b. Executed Certificate of Ownership
- c. Fees for Filing Fee and Peer Review Fee in two (2) separate checks made payable to the Town of Lunenburg.
- d. Four copies of the drainage calculations and supplemental plans (if applicable).
- e. 300 foot Certified Abutters List, including those located in other Cities and Towns, map and two (2) stamped envelopes for each unique abutter and each surrounding community.
- f. Site Plans – ~~Eleven-Eighteen (11-18)~~ copies of the full size site plan (24”x36” or larger) ~~and seven (7) copies of reduced 11”x17” size site plan~~, including:
 - 1) Prepared and stamped by a professional engineer and professional land surveyor and shall be prepared utilizing the most current release of AutoCAD. A disk containing the AutoCAD, and pdf design shall be submitted to the Planning Board.
 - 2) Prepared at a scale of 1”=40’. Datum shall be the Massachusetts State Plane, North American Datum 1983, with units of U.S. Survey Feet. The vertical datum shall be North American Vertical Datum 1988.
 - 3) The location and boundaries of the site including Assessor’s map/parcel number, street address if applicable.
 - 4) Locus at a scale of 1”:1000’ or greater, including abutting land use(s) and zoning district(s).

- 5) Existing and proposed land and buildings uses.
- 6) Information regarding the ownership of adjacent land including Assessor's map/parcel, and street address if applicable.
- 7) Existing and proposed topography and proposed grading for the entire site. This shall include earth removal as defined in Section VII (H) of the Zoning Bylaw. Cut and fill calculations shall also be included.
- 8) Existing and proposed utilities in adjacent streets.
- 9) Existing and proposed on-site structures and all buildings within two hundred (200) feet of the property lines.
- 10) Existing and proposed driveways and driveway openings within three hundred (300') feet of the property lines.
- 11) Existing and proposed parking and loading spaces.
- 12) Delineation of wetlands or other areas potentially subject to the Wetlands and Rivers Protection Act.
- 13) Delineation of areas included in any Flood Plain District and areas included in the Aquifer Protection Overlay District.
- 14) The location of any proposed structures, streets, ways, walls, hydrants, fences, outdoor lighting, open space areas, recreation areas, egresses, service entries, facilities for waste disposal or storage, snow storage area and parking with individual spaces identified.
- 15) The location, size and sketch of all proposed signs, including materials and lighting scheme.
- 16) Existing significant trees (6" trunk width at 4' above ground level) or vegetation. Proposed landscaping and screening, indicating distinctions between proposed and retained vegetation.
- 17) On-site existing and proposed potable water, drainage and sewerage systems.
- 18) Sufficient data to determine compliance with the Rules and Regulations of the Architectural Access Board and Americans with Disabilities Act for handicapped parking, if applicable, as well as parking schedule requirements based on proposed uses.
- 19) Sufficient data to determine compliance with the Protective Bylaw of the Town of Lunenburg, presented in tabular form.

20) Data regarding traffic safety and capacity issues sufficient for the Board to make a determination of whether a traffic impact analysis is necessary.

21) Limit of work area, including proposed tree line.

22) A photometric map showing on-site footcandle information.

23) Architectural elevations with proposed façade material, perspective views that demonstrate the projects relation to the surrounding parcels and street, and floorplans. These documents shall be completed and stamped by a Registered Architect.

24) A signature block for the endorsement of the Planning Board. This block shall be located in a consistent location on all pages of the plan set preferably the bottom right corner of the plan.

25.) Construction Details

g. Planning Board Right of Access Form

h. Impact Reports - Impact Reports for each development will be required to accompany site plans and shall address traffic, public services and fiscal impacts, environmental impacts, community impacts and any effect upon adjoining properties.

Traffic, Transportation and Circulation

Traffic impact: Projected total and peak-hour trip generations, capacity and pre and post-project (buildout) level of service (LOS) of streets and intersections to be affected by the project, existing and proposed traffic controls and sight lines at the intersections of proposed driveways and streets.

Level of service: Level of service shall be analyzed using the procedures described in the most recent edition of the Highway Capacity Manual, published by the Transportation Research Board.

Trip generation: Traffic generated by a proposed use shall be estimated in accordance with the most recent edition of Trip Generation, published by the Institute of Transportation Engineers (ITE).

Stormwater

The stormwater management systems shall be designed in accordance with ~~the Massachusetts Department of Environmental Protection (DEP) Stormwater Management Policy Handbook and Technical Handbook~~ Section 204 of the Code of Lunenburg, as most recently amended.

Public Services and Fiscal Impacts

Fiscal impact: Projections of costs rising from increased demand for public services and infrastructure; projections of benefits from increased tax revenues, employment and infrastructure improvements; and impacts on adjacent property values.

Environmental Impacts

Environmental impact: Written analysis of the project's potential impacts on the quality of air, surface water and groundwater; flooding potential; increases in impervious surfaces; stormwater management; compliance with Groundwater Protection Overlay District requirements; hazards from radioactive emissions or other hazardous materials; solar access to adjacent properties; and noise and light impacts.

Community Impacts

Community impact: Analysis of the project's impact on the surrounding neighborhood in terms of architectural character, pedestrian movement and overall character; impacts on nearby historic structures or sites; and an evaluation of the proposed project's consistency and compatibility with existing local and regional plans.

The Planning Board, as applicable, based on a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements provided for Impact Reports. Such waiver shall be issued in writing with supporting reasons.

Section 4.2 – Supplemental Documentation:

Throughout the Special Permit and/or Site Plan Review process, the applicant may submit supplemental and/or revised materials after the initial submittal. The following quantities shall be submitted:

- a. Full Size Site Plans - ~~4~~12 sets
- ~~b. 11"x17" Site Plans – 8 sets~~
- c. Drainage calculations and supplement plans (if applicable)-2 copies
- d. Cover letters and/or supporting narrative-9 copies

In order to allow members adequate time to review submissions, all material must be submitted to the Lunenburg Planning Office no later than 4:00 PM on the Tuesday prior to a scheduled meeting to be considered at said meeting.

Section 4.3 –Modification of an Approved Site Plan:

- a. The Planning Board, where it is not otherwise inconsistent with these provisions or with the Town's Protective Bylaw, may hear a modification to a previously approved Site Plan.
- b. The applicant shall submit an Application for Site Plan Approval/Modification with the requirements identified in Section 4.1.

Section 4.4 – “De-minimis Change” to an Approved Site Plan:

- a. The Planning Board, where it is not otherwise inconsistent with these provisions or with the Town's Zoning Bylaw, may approve de-minimis changes to a previously approved Site Plan.
- b. De-minimis changes may be approved for such changes including, but not limited to:
 - 1. The total number of parking spaces.
 - 2. Parking space sizes and alignment.
 - 3. Minor Drainage (surface/stormwater).
 - 4. Curb opening dimensions and locations (provided such opening has been approved by the Lunenburg Highway Department and/or MassDOT).
 - 5. Removal of underground storage tanks and other underground utilities.
 - 6. Minor changes to water and/or sewer.
 - 7. Changes in hydrant locations.
 - 8. Changes in site/building elevations, and topographic changes on portions of the site.
 - 9. Changes in walkways and Handicapped Access Ways.
 - 10. Changes in the type of screening/rubbish collection areas.
- c. Procedure and Request for De-minimis Changes - Requests for approval of de minimis changes shall be submitted to the Planning Board on the Application for Site Plan Approval/Modification. Such written request shall be accompanied by ~~two-seven (27)~~ full size and ~~ten-five (105)~~ 11”x17” size redlined plans indicating proposed changes and a statement supporting the basis for granting a de-minimis change.

d. The Board shall send written notice of its action to the applicant, Inspector of Buildings, DPW Director, and other affected Departments and Boards of its decision regarding a de-minimis change.

SECTION 5.0 – HEARINGS

Section 5.1 –Notice:

Notice of hearings shall be advertised as required by Massachusetts General Laws, Chapter 40A, § 11. In addition, a copy of the advertised notice shall be sent by mail, at least fourteen (14) days prior to the date of the public hearing, postage prepaid, to the applicant, to those listed on the Certified Abutters List, Town Officials and other Town Boards and Commissions.

Section 5.2 – Hearings to be Public:

All hearings shall be open to the public. At the hearing, any party, whether entitled to notice thereof or not, may appear in person or by agent or attorney. No person shall be excluded unless deemed by the Chair to be a serious hindrance to the proceeding of the hearing.

Section 5.3 – Representation and Absence of the Applicant:

An applicant may appear on his own behalf or be represented by an agent or an attorney. The applicant shall authorize such representation by an agent in writing. In the event of absence of the applicant or his representative at a duly scheduled hearing, the Board may render a decision on the application using information submitted or otherwise received.

Section 5.4 – Order of Business:

The public hearing shall be held at the call of the Chair, who shall describe the rules of procedure for the hearing and then read or direct the reading of the public hearing notice to open the public hearing. After the opening of the public hearing, the order of business will generally proceed as follows:

- a. The Clerk shall read the legal notice and the Chair shall present any materials received in response to the application.
- b. Presentation by the applicant, which may be limited at the discretion of the Chair. Each plan or other item used as part of the presentation shall be identified by its proper title and date. Each item shall be identified as either part of the application or a copy shall be provided for the file.
- c. Questions or comments by the members of the Board. At the direction of the Chair, responses shall be made by either Town staff or the applicant.
- d. Questions or comments by staff assigned to the Board, followed by responses by the applicant.

- e. Questions or comments by members of other Town Boards or Town staff. At the direction of the Chair, responses shall be made by either Town staff or the applicant.
- f. Questions by members of the public seeking information. Persons wishing to be heard must be recognized by the Chair and must state their name and address prior to asking a question. At the direction of the Chair, responses shall be made by either Town staff or the applicant.
- g. Opponent's formal presentation (if applicable), which may be limited at the discretion of the Chair.
- h. Applicant's rebuttal (if applicable), which shall be restricted to matters raised by opponents.
- i. Board members ask for any additional information needed to render a decision.
- j. The Chair, upon majority vote of the Board, continues the public hearing to a date, time and place certain that is announced at the public hearing or closes the public hearing if the Board feels they have received sufficient information to render a decision. Upon the close of a hearing, no additional information received by the Board may be used in the making of its decision. Members of the Board hearing the case may, at any time, direct appropriate questions during the course of the hearing. All questions shall be directed through the Chair.

Section 5.5 – Non-Disqualification of Board Member from Voting:

A member of the Planning Board when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

SECTION 6.0 -- ACTIONS BY THE BOARD

Section 6.1 – Voting Requirements:

The concurring vote of four (4) members of the Board must be obtained for the granting of a Special Permit. A majority three (3) members of the Board must be obtained for the granting of Site Plan Approval. The record shall indicate the vote of each member upon each question or, if failing to vote, indicating such fact and setting forth clearly the

reason(s) for its decisions, and of its other official actions, copies of which shall be filed in the office of the Town Clerk.

Section 6.2 –Notice of Decision:

A copy of the Board’s decision or notice of said decision shall be mailed to the applicant, owner of the subject property, parties in interest, and those requesting notice. Notice shall be completed in accordance with the requirements of MGL Chapter 40 A, Sections 9, 10 and 11.

Section 6.3 – Withdrawal:

An application may be withdrawn without prejudice at any time prior to the public hearing by notifying the Land Use Director in writing. After the opening of the public hearing but prior to the filing of the decision, an application may be withdrawn by mutual consent of the applicant and a majority of the Board. Notification of the withdrawal after the opening of a public hearing must be filed with the Town Clerk.

Section 6.4 – Reconsideration:

Once a petition has been voted upon and the meeting adjourned, reconsideration of a decision shall be allowed only by affirmative consent of all Board members. In no case shall reconsideration be allowed after seven (7) days of the Board’s vote or after the decision has been filed with the Town Clerk.

Section 6.5 – Application:

In order to have a petition reheard within two (2) years, the Board must find specific and material changes in the conditions upon which the previous unfavorable action was based and describe such changes in the record of the proceedings. A petition for reconsideration will only be considered when all but one of the members of the Planning Board consents thereto in accord with Massachusetts General Laws, Chapter 40A, § 16.

SECTION 7.0 – APPROVAL

Section 7.1 – Approval:

If a Site Plan or Special Permit application is approved by the Planning Board, the applicant shall submit the following information after a decision is granted and a minimum of seven (7) days prior to setting up a pre-construction meeting. The Plan set shall contain a note referencing the Planning Board decision.

- a. Complete Plan Set- Two (2) paper copies
- b. Cover sheet and utilities only-Three (3) copies

- c. Cover Sheet, layout and materials only-Five (5) copies
- d. CD-ROM with Auto-CAD and PDF files of entire plan set and all supporting documentation.

Section 7.2 – Performance Guarantees:

- a. Before approving a Special Permit, the Planning Board may require that a bond or other performance guarantee be filed by the Applicant in an amount determined by the Board to be sufficient to cover the cost of roadway improvements, parking areas, stormwater management facilities, water quality monitoring programs, landscaping, or other items required by the Board's permit decision and approved as to form and sureties by the Town Treasurer, conditioned upon the satisfactory completion of such improvements within such period of time, if any, as the Board may specify in its decision.
- b. A total or partial release from the performance guarantee may be obtained when the required improvements are complete, in whole or in part, as set forth in the bond or at the Planning Board's discretion.
- c. In the event that the Applicant fails to perform satisfactorily the requirements set forth in the Special Permit decision or any written agreement regarding the performance guarantee, within the specified period of time, if any, the then outstanding principal amount (penal sum) of the bond shall be payable to the Town as provided by law, to the extent of the reasonable cost to the Town of the completion of the improvements required under the bond. In such case, the Planning Board's approval of the Special Permit may also be rescinded following the procedures provided by law.

Section 7.3 – Inspection Fees:

- a. The Applicant shall be responsible for all costs associated with inspections, based on work program submitted by the Town's Review Engineer, as required by the Zoning Bylaw or these Rules and Regulations.
- b. The Planning Board, in consultation with the Town's Review Engineer, shall determine the amount of any additional Inspection Fee funds required, should the initial Inspection Fee balance approach 25% of the original amount submitted.
- c. If it is determined that a supplemental Inspection Fee is required, the Planning Board shall notify the Applicant by mail, postage prepaid, within seven (7) days of such decision. The required fee must be received by the Town within fourteen (14) days after the receipt of notification.

SECTION 8.0 – AMENDMENTS

These Rules and Regulations may be amended or repealed from time to time by holding a public hearing and an affirmative vote of a majority of the Board, provided that such amendments or repeal shall be presented in writing at the hearing. The amendment of the General Laws in respect to any matter covered by these Rules and Regulations will constitute automatic amendment.

SECTION 9.0 – EFFECTIVE DATE

These Rules and Regulations were adopted at a regular meeting of the Board on January 29, 1988, revised November 15, 1999, revised March 6, 2006, revised October 22, 2007, and revised June 27, 2016 and became effective as of that date. All Rules previously adopted and subsequently amended are hereby repealed. No action taken under said Rules shall be affected by said repeal.

SECTION 10.0 – VALIDITY

The invalidity of any section of these rules and regulations shall not invalidate any other section or regulation contained herein.