

Town of Walpole, Massachusetts



Planning Board

RULES AND REGULATIONS GOVERNING THE ISSUANCE OF SPECIAL PERMITS BY THE PLANNING BOARD

Adopted August 6, 2009

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RULES AND REGULATIONS GOVERNING THE ISSUANCE OF SPECIAL PERMITS BY THE PLANNING BOARD

1. General

These rules and regulations are adopted by the Walpole Planning Board as authorized by M.G.L. Ch. 40A, Sec. 9, for the purpose of establishing procedures for conducting the business of the Planning Board under its jurisdiction as a Special Permit Granting Authority by virtue of the applicable provisions of the Massachusetts General Laws and of the Zoning Bylaw of the Town of Walpole.

2. Application

2.1. Applicant

An application for a Special Permit may be filed by a property owner, a prospective purchaser, or other applicant provided that the documentation from the owner certifying the applicant's legal interest in the property and right to file accompanies the application.

2.2. Pre-Application Review

To promote better communication and to avoid misunderstanding, the applicant is strongly encouraged, prior to the preparation of a formal application, to meet with the Town Planner, Conservation Agent, Health Agent, Sewer and Water Superintendent, Town Engineer, Building Inspector, Police Chief, Fire Chief, and any other Town official, board, or commission for informal discussions regarding any issues relative to a proposed Special Permit. However, any advice, opinion, or information given to the applicant by any Town official or employee prior to a public hearing shall not be binding on the Planning Board.

2.3. Application Form

An application for a Special Permit shall be made on an appropriate official application form entitled "Town of Walpole Planning Board - Application for Special Permit" which shall be furnished upon request. Any communication purporting to be an application shall be treated as intent to seek Planning Board action until such time as an official application form has been submitted. All information called for by the form shall be furnished by the applicant in the manner therein described. The forms to be used are hereby made a part of these Rules and Regulations.

2.4. Filing of Application

Each application for a Special Permit shall be filed with the Town Clerk, and three copies of said application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Planning Board, accompanied by an administrative fee of \$250.00, and, where apt, nine (9) copies of a standard Town of Walpole Development Impact Statement (DIS) and nine (9) copies of a Site Plan pursuant to Section 2.5. below and to the applicable Section(s) of the Town of Walpole Zoning Bylaw along with the fee schedule applicable to the particular Site Plan under the Board's ***SITE PLAN REVIEW FEE SCHEDULE*** in effect at the time of submission of the Special Permit application.

All applications shall be accompanied by a certified list of parties in interest, as defined under M.G.L. Chapter 40A, Section 11, and a check in an amount sufficient to cover the filing fee as stated within the fee schedule. The applicant shall arrange and pay for publications of the notices of the hearings as required by M.G.L. Chapter 40A, Section 11.

2.5. **Plans to Be Filed**

Nine (9) copies of a plan of land, drawn by a Registered Professional Engineer and a Registered Land Surveyor, as appropriate within their areas of licensure, shall be submitted with the Special Permit application, and filed forthwith with the Planning Board by the applicant. Said plan shall show any plan submission requirements contained within the applicable Section of the Zoning Bylaw.

2.6. **Ownership and Maintenance Plan**

A plan detailing the ownership and rights of use of common drives and responsibilities and ownership of stormwater drainage facilities, as well as a detailed plan of maintenance of such common drives and drainage facilities shall be submitted to the Planning Board for review.

2.7. **Transmittal of Plans for Review**

Within five days of submission, the plan submitted with the Special Permit application shall be transmitted for review and comment to the Board of Health, Board of Sewer and Water Commissioners, Engineering Department, Conservation Commission, Building Department, Fire Department, and Police Department. Such boards and departments shall, within 35 days from receipt of the plan and other supporting application materials, file their written recommendations on the proposal with the Planning Board.

2.8. **Information to Be Furnished to the Planning Board**

The applicant shall be required to support factually all points relied upon in the application concerning the proposed use of land, conditions, and character of the development which show that it will be in harmony with the general purpose and intent of the provisions for the applicable section of the Zoning Bylaw as well as with the general and specific requirements of Section 2.2 of the Zoning Bylaw when applicable, and all other provisions governing the land use and the zoning district in which the land is located. Such information, together with any other relevant data, shall be indicated on the application form or on the accompanying plans, and presented verbally or in writing at the public hearing.

2.9. **Application for Amendments**

Amendments to Special Permits previously granted by the Planning Board as a Special Permit Granting Authority shall be treated in the same manner as any new application under this section of the Planning Board Rules and Regulations.

2.10. **Consultant Review Fees**

2.10.1. **Applicability:** So that the Planning Board may make the findings required under the Zoning Bylaw and insure that the public safety will be protected, in addition to the Application Fee, the Planning Board may impose a Consultant Review Fee on those applications which require, in the judgment of the Planning 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

- 2.10.2. **Submittal:** Consultant Review Fees shall be submitted at a time to be determined by a majority vote of the Board for deposit in an account established pursuant to G. L. c. 44, s. 53G (53G Account). Failure to submit the fee as required by the Board shall be cause for the Board to discontinue or suspend the proceedings and no review work shall commence until the fee has been paid in full.
- 2.10.3. **Replenishment:** When the balance in an applicant's 53G Account falls below twenty-five percent (25%) of the initial Consultant Review Fee, as imposed above, the Planning Board shall consider whether to require a supplemental Consultant Review Fee to cover the cost of the remaining project review.
- 2.10.4. **Excess amount and interest:** At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be the applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.
- 2.10.5. **Appeal From the Selection of the Consultants:** The applicant may appeal the selection of an outside consultant to the Board. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications of an educational degree in or related to the field at issue, or three or more years of practice in the field at issue or a related field. The applicant must specify the specific grounds which the applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements.

3. The Hearing

3.1. Hearing Date and Notice

Upon receipt of an application, the Planning Board shall set a date of the public hearing for the Special Permit application, which shall be held within 65 days of the application filing date. Notice of the hearing shall be advertised as required by M.G.L. Chapter 40A, Section 11. In addition, copies of the notice shall be sent by postage prepaid mail at least ten days prior to the date of the hearing to all parties in interest. The required time limits for a public hearing may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such agreement shall be filed in the office of the Town Clerk.

3.2. Hearing Procedure

- 3.2.1. Hearings will start at the time stated in the notice unless delayed because of prior hearings.
- 3.2.2. At the hearing the chairperson may administer oaths, summon witnesses, and call for the production of papers. The Planning Board may retain any record which has been introduced as evidence for reference in the consideration of the case.

- 3.2.3. At the hearing, any party, whether entitled to notice thereof or not, may appear in person or by agent or attorney.
- 3.2.4. No person shall address a hearing of the Planning Board without permission of the chairperson, and all persons shall, at the request of the chairperson, be silent.
- 3.2.5. The chairperson will open the hearing by reading, or causing to be read, the notice as advertised.
- 3.2.6. The petitioner or his representative will then present his case, stating fully the reasons why the petition or application should be granted.
- 3.2.7. When the petitioner or his representative has concluded the presentation, the chairperson shall read the comments and recommendations received from other Town boards, commissions, departments, and agents concerning the application.
- 3.2.8. The chairperson will then allow those in favor of the application to speak. Those who wish to speak will rise, address the chairperson, give their name and address, then proceed.
- 3.2.9. When all those in favor have spoken, the chairperson will then allow those in opposition a similar opportunity to be heard.
- 3.2.10. When all those in opposition have spoken, the chairperson may then allow the petitioner or his representative an opportunity to present rebuttals and concluding remarks.
- 3.2.11. Questions seeking information and deemed relevant by the Planning Board may be allowed at its discretion at any time.
- 3.2.12. Members of the Planning Board who are hearing the case, or any of the Board's agents, may direct appropriate questions during the hearing.
- 3.2.13. When all facts have been presented, the chairperson will close the hearing.

4. Actions by the Board

4.1. Voting Requirements

The Planning Board shall take final action on the application within ninety (90) days following the date of the public hearing. Said final action shall include filing the Planning Board's decision with the Town Clerk. The concurring vote of four of the five members of the Planning Board shall be necessary to decide in favor of an application for a Special Permit. The Planning Board shall cause to be made a detailed record of its proceedings, showing the vote of each member or, if failing to vote or absent, indicating such fact, and setting forth clearly the reasons for its decision and of its other official actions, copies of which shall be filed in the Office of the Town Clerk. The required time limits for said action may be extended by written agreement between the petitioner and the special permit granting authority. A copy of such agreement shall be filed in the office of the Town Clerk.

4.2. **Withdrawal**

An application may be withdrawn without prejudice by notice in writing to the Planning Board at any time prior to the publication of the notice of a public hearing. Withdrawal thereafter with or without prejudice requires Planning Board approval and, in either event, there shall be no return of any fee paid with such application.

4.3. **Repetitive Petitions**

No application which has been unfavorably and finally acted upon by the Planning Board shall be acted favorably upon within two years after the date of final unfavorable action unless the Planning Board finds, by a concurring vote of four of the five members of the Board, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the records of its proceedings, and unless all but one of the members of the Planning Board consent to consideration of the matter. Notice to parties in interest shall be given of the time and place of the proceedings at which the question of consent will be considered.

4.4. **Limitation on Approval/Extension**

If an application for a Special Permit is approved by the Planning Board, all permits necessary for the execution of the work shall be obtained and substantial use thereof shall be commenced except for good cause within two years from the date of filing of the Board's decision in the Office of the Town Clerk, unless the Board otherwise provides for a lesser period of time in the decision. A reasonable extension of said time shall be granted by the Planning Board in the case of an appeal to the Superior Court under M.G.L. Chapter 40A, Section 17, or for good cause shown.

4.5. **Decisions**

4.5.1. The Planning Board will submit a copy of the Board's decision to the Town Clerk, the property owner, the applicant if other than the property owner, and when applicable, other Town boards, commissions, and departments, and will send notices of its decision to parties in interest and every person present at the public hearing who requested that notice be sent and stated the address to which it is to be sent.

4.5.2. Appeal of a decision of the Planning Board on a Special Permit shall be made directly to a court of a competent jurisdiction in accordance with the requirements of M.G.L. Chapter 40A Section 17.

4.5.3. The applicant is responsible for filing the certified decision of the Planning Board in the Registry of Deeds and for paying the recording fees. Proof of the recorded decision, certified by the Registry, must be submitted to the Planning Board before a building permit dependent on the Special Permit can be issued by the Building Inspector.

5. Related Variances

An applicant shall be responsible for filing any request for required variances from the Zoning Board of Appeals prior to any application filed with the Planning Board in accordance with these Planning Board rules for Special Permits. The Planning Board recommends to the applicant that any request for Planning Board public hearings be delayed until action by the Board of Appeals, including any statutory appeal period in accordance with Massachusetts General Laws, has expired.

6. Waivers

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the opinion of the Planning Board, such action is in the public interest and not inconsistent with the Zoning Bylaw of the Town of Walpole.

TOWN OF WALPOLE PLANNING BOARD

APPLICATION FOR SPECIAL PERMIT

This application must be completed, signed, and submitted by the Applicant or his/her representative in accordance with the Planning Board's Rules and Regulations as adopted under its jurisdiction as a Special Permit Granting Authority.

Location of property _____

Name of Applicant _____

Address _____ Tel. # _____

Fax _____ E-Mail _____ @ _____

Applicant is (circle one): Owner Agent/Attorney Purchaser

Property Owner's Name (if not Applicant) _____

Address _____ Tel. # _____

Fax _____ E-Mail _____ @ _____

Characteristics of property: Lot Area _____ Present Use _____

Assessor's Map # _____ Parcel # _____ Zoning District _____

Nature and justification for a Special Permit under the Town of Walpole Zoning Bylaw:

I hereby request a hearing before the Planning Board with reference to the above application.

Signature of Applicant _____

Owner's Permission (if other than Applicant) _____

Town of Walpole Planning Board
Request for Abutters List
Special Permit Approval

Explanation: Applicants are advised that they are responsible for acquiring the abutters list for this project from the Board of Assessors. Please use this form to make the request from the Board of Assessors to get this information. Applicant must then supply the items received from the Assessors to the Planning Board as part of the application.

Date: _____

To: Town of Walpole Board of Assessors

I respectfully request an abutters list (locus 300 feet) for the Planning Board under their authority to grant Special Permit Approval by virtue of the provisions of Section 2.2 of the Town of Walpole Zoning Bylaw.

Name of Applicant_____

Address_____

Telephone_____

Fax_____

E-Mail _____@_____

Location of Property and Assessors Lot Number_____

I understand that I shall pay a fee of \$1.50 per abutter to the Board of Assessors to assemble this list.

Please note that the following items are included with this packet:

- Abutters Request Form
- Abutters List
- Two (2) Sets of Mailing Labels

The complete packet must be submitted to the Planning Board when making an application for a Special Permit Approval public hearing.

Town of Walpole Planning Board

Development Impact Statement

To be completed in full. DO NOT LEAVE ANY BLANKS, except where otherwise allowed. If some sections do not apply, enter "N/A". If you wish that a section be waived, enter "Waiver Requested" and provide justification narrative in cover letter.

I. SUMMARY

A. Project Identification

1. Project Name _____

Address/Location _____

2. Applicant _____

Address _____

3. Owner _____

Address _____

B. Areas of Potential Impact

Check all areas in which an impact related to this project may occur, both on-site and off-site, positive as well as adverse:

	Construction Impact	Long-Term Impact
Traffic	_____	_____
Air Quality	_____	_____
Surface/Groundwater Quality	_____	_____
Flooding/Erosion/Sedimentation	_____	_____
Wetlands	_____	_____
Hazardous Waste	_____	_____
Microclimate (wind, temperature, etc.)	_____	_____
Solar Access	_____	_____
Noise	_____	_____
Light	_____	_____
Water System Capacity	_____	_____
Solid/Liquid Waste Disposal System	_____	_____
Tax Revenues	_____	_____
Property Values	_____	_____
Historical/Archaeological	_____	_____
Neighborhood Character/Aesthetics	_____	_____
Open Space/Recreation	_____	_____
Master Plan/Regional Plan	_____	_____

II. PERMITS AND OTHER ACTIONS

List the Federal, State, and Local agencies from which permits or other sections will or have been sought:

<u>AGENCY</u>	<u>PERMIT</u>	<u>DATE FILED/FILE NUMBER</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

III. TRAFFIC IMPACT ASSESSMENT

A. Existing Traffic Conditions

For all streets and intersections adjacent to or within 1,000 feet of the proposed project boundaries, provide the following data. Attach separate sheet or report, if necessary.

Average Daily and Peak Hour Volumes: _____

Level of Service (LOS) Ratings: _____

Average and Peak Speeds: _____

Sight Distances: _____

B. Projected Traffic Impacts

For all streets and intersections adjacent to or within 1,000 feet of the proposed project boundaries, as well as proposed access and egress routes, streets, and intersections within the project boundaries, provide the following data. Attach separate sheet or report, if necessary.

Projected Average Daily and Peak Hour Volumes: _____

Level of service (LOS) Ratings: _____

Projected average and peak speeds: _____

Sight Distances: _____

For all streets and intersections analyzed in A and B above, how will background traffic growth affect traffic conditions in the design year of occupancy of this project? _____

IV. ENVIRONMENTAL IMPACT ASSESSMENT

A. Air Quality

Will the project create any significant emissions of dust, fumes, or other noxious gases?

Describe:

B. Surface/Groundwater Quality

Will the project adversely affect surface and groundwater in the area, either by run-off, leaching, or other similar methods?

C. Flooding

Will any buildings within the project be sited within 100' of an established flood plain?

Yes: _____

No: _____

What proportion of the project will be subject to flooding? _____

D. Erosion/Sedimentation

Will the project create significant amounts of erosion of topsoil? Yes: _____ No: _____

Will sedimentation of adjacent streams or wetlands occur? Yes: _____ No: _____

Describe proposed mitigation measures for the control of stormwater run-off: _____

E. Wetlands and Wildlife

Will construction of the project take place within 100' of any wetlands?

Yes: _____ No: _____

Will the project adversely impact any areas of critical wildlife habitat?

Yes: _____ No: _____

F. Hazardous Waste

Are hazardous wastes present on the site? Yes: _____ No: _____

Will the project generate hazardous wastes of any form? Yes: _____ No: _____

Will there be any hazardous wastes stores on site? Yes: _____ No: _____

G. Microclimate

Describe any significant impacts on wind pattern or surface temperatures the project may generate: _____

H. Solar Access

Will the project impede the solar access of adjacent properties? Yes: _____ No: _____

I. Noise

Will the project generate a significant increase in noise? Yes: _____ No: _____

J. Light

Will artificial light be used in the project? Yes: _____ No: _____

If so, will it be directed toward adjacent properties or streets? Yes: _____ No: _____

V. SYSTEMS IMPACT ASSESSMENT

A. Water System Capacity

Estimate water demand for the project for the project in gallons per day: _____gal/day

Will water be supplied by the Town of Walpole or by private wells?

Town of Walpole: _____ Private Wells: _____

Have flow tests been conducted on water mains that will serve the project?

Yes: _____ No: _____

If so, give summary of results: _____

B. Sewer System Capacity

Estimate, in gallons per day, the amount of sewage to be generated by this project.

_____ gal/day

Will the project be serviced by the Town of Walpole sewer or managed on site?

Town of Walpole: _____ Managed On Site: _____

C. Solid Waste

Will the project generate a significant amount of solid waste? Yes: ____ No: ____

How will the disposal of this waste be managed? _____

VI. FISCAL IMPACT ASSESSMENT

A. Projected Costs

Estimate projected costs to the Town of Walpole for municipal services related to the project (police, fire, public health, cultural/recreational, general government) for all years of construction and/or phasing, as well as for a five-year period thereafter.

Estimate projected costs to the Town of Walpole for educational services related to the project for all years of construction and/or phasing, as well as for a five-year period thereafter.

B. Projected Revenues

Estimate projected property tax revenues generated by this project for all years of construction and/or phasing, as well as for a five-year period thereafter.

List other sources of revenue that may be generated by this project.

C. Property Values

Will this project positively or adversely affect adjacent property values? Explain.

VII. COMMUNITY IMPACT ASSESSMENT

A. Historical/Archaeological

Will any site or structure of historic significance be affected by this project?

Will any archaeological site be affected by this project?

B. Neighborhood Character/Aesthetics

Will the architectural, landscape, and urban design scheme fit into existing neighborhood character?

Will the project be creating any new open space/recreation areas?

Will the project affect any woodlands or agricultural lands?

VIII. MASTER PLAN/REGIONAL PLAN CONSISTENCY

Will the project have any significant affect on the implementation of any existing Master Plan or Regional Plan affecting the Town of Walpole? (Explain. Attach Separate Pages As Needed)

Date: _____

Seal:

Engineer's Signature: _____

Address: _____

Telephone Number: _____

Print Name of Owner: _____

Signature of Owner: _____

Address: _____

Telephone Number: _____

Print Name of Applicant: _____

Signature of Applicant: _____

Address (if different): _____

Telephone Number (if different): _____

