

PLANNING BOARD
RULES & REGULATIONS
GOVERNING SPECIAL PERMITS FOR
SPECIAL RESIDENTIAL DEVELOPMENT

TOWN OF MATTAPOISETT

2002

MARCH 4, 2002

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**RULES AND REGULATIONS
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FOR
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1.0 GENERAL PROVISIONS

1.1 Purposes and Authority:

The following rules are hereby adopted by the Mattapoisett Planning Board as provided in Chapter 40A of the Massachusetts General Laws, for the purpose of establishing uniform procedures for the granting of Special Permits for Special Residential Developments. For the purposes of this Special Permit, the Planning Board is the Special Permit Granting Authority.

1.2 Adoption and Amendment:

These rules and regulations may be adopted and from time to time amended by majority vote of the Board members present and voting, provided such adoption or amendment is taken after a public hearing.

1.3 Effective Date:

These rules and regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements, such as:

Date of adoption

Date filed with Town Clerk

Amendments

2.0 APPLICANT (Petitioner)

An application or petition for a Special Permit may be brought by a property owner, agent, or prospective purchaser who submits certification (such as an executed purchase and sales agreement) of property interest and authority to file.

3.0 APPLICATION FOR SPECIAL PERMITS

3.1 Official Application Form

Application for Special Permits shall be made on an official form, which shall be furnished by the Town Clerk or the Clerk of the Planning Board upon request.

3.2 Contents of An Application:

The completed application form, original plan, and nine (9) copies shall be submitted to the Board with an additional copy filed forthwith with the Town Clerk by the applicant. The following information shall be furnished by the applicant:

- 3.2.1 A yield plan that shows on a preliminary subdivision plan the number of dwellings which could be constructed under this bylaw and the Rules and Regulations of the Planning Board Governing the Subdivision of Land by means of a conventional subdivision plan. The burden of proof shall be upon the applicant in determining the number of dwellings. Where the site proposed for SRD includes more than one (1) ownership and/or lies in more than one (1) district, the number of dwellings shall be calculated as above for each district and summed to give an overall total.
- 3.2.2 A SRD plan that includes:
 - 3.2.2.1 Ownership, zoning, use and general structure location for properties within 200 feet of the subject property.
 - 3.2.2.2 An analysis of the site, indicating wetlands, slopes, soil conditions, areas within the 100 year flood plain or velocity zone, trees over six (6) inches diameter, stone walls and such other natural features as the Planning Board may request.

- 3.2.2.3 Location, bulk and height of all proposed buildings with design characteristics such as: building material, architectural style, scale and massing relative to abutting structures interior layouts, streets, site and building landscaping.
- 3.2.2.4 Signs including proposed sizes, materials and mounting heights.
- 3.2.2.5 Lighting including location and information on the size, type, mounting heights and wattage.
- 3.2.2.6 Proposed water and sewage services.
- 3.2.2.7 Proposed open space area.
- 3.2.2.8 A site plan drawn at a scale of 1" = 40', unless another scale is previously requested by the applicant and found suitable by the Board;
- 3.2.2.9 A professional engineer, registered architect or registered landscape architect shall prepare the plan;
- 3.2.2.10 The plan shall be stamped by the registered land surveyor who performed the instrument boundary survey and who shall certify the accuracy of the locations of the building, setbacks and all other required dimensions, elevations and measurements and shall be signed under the penalties of perjury.
- 3.2.2.11 The scale, date and north arrow shall be shown;
- 3.2.2.12 Lot number, Dimensions of lot in feet, Size of lot in square feet, and width of abutting streets and ways;
- 3.2.2.13 The location of existing wetlands, water bodies, wells, one-hundred year flood plain elevation, and other natural features; streams, wetlands, vistas, slope areas, geological features, unique vegetation, historic features, and others that may be important to the site;

- 3.2.2.14 A landscape plan to include the total square feet of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, methods, and species of plantings;
- 3.2.2.15 Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, and access within the property;
- 3.2.2.16 Existing and proposed topographical lines at two-foot contour intervals on the tract and within 50' thereof;
- 3.2.2.17 The location and a description of proposed open space or recreation areas;
- 3.2.2.18 Existing and proposed street, parking, drainage, and utility systems shall be prepared by a professional engineer registered in Massachusetts;
- 3.2.2.19 The applicant shall submit information regarding: all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding;
- 3.2.2.20 Any additional information which the Board may require, the Board may engage a Massachusetts Professional Engineer experienced in groundwater evaluation, hydro-geology or hazardous and toxic materials to review the application for completeness and correctness and shall require the applicant to pay for the cost of the review.
- 3.2.2.21 A locus plan at 1" - 100', 200' or 400' scale showing the location, names, and present widths of the Secondary Streets bounding, approaching or within reasonable proximity of the site, and including the tracts of land, ownership, and topography taken from assessor's plans or field survey if available, or properties there-in.

- 3.2.2.22 The application shall also furnish a narrative summary of the vital statistics of the project. Such statistics shall include; total gross and net square footage, number of parking spaces, and estimated amounts of water consumption and sewer discharge.

3.3 Layout and Design Standards

- 3.3.1 All streets, drainage, water system, sewerage, utilities, grading, and other improvements shall be made in accordance with the Rules and Regulations Governing the Subdivision of Land in the Town of Mattapoisett.

4.0 FEES

All applications shall be accompanied by plans with supporting studies, data, drawing and two certified checks made payable to the order of the Town of Mattapoisett. One check shall be for administrative fees and the second check shall establish an individual special account. Any additional payments required shall be made within 30 days of the billing date.

4.1 Administrative Fee

The minimum filing fee for a Special Permit application shall be two hundred dollars (\$200) plus fifty dollars (\$50) per unit for a Special Permit application.

4.2 Consultant Review Fee/Special Account

- 4.2.1 Where specific conditions arising from the land or the nature of the proposal necessitate the assistance of a planning, engineering, traffic, soils, hydrologic or other consultant(s), the Planning Board may engage such consultant services to assist the Board in analyzing the project to ensure compliance with all relevant laws, ordinances, bylaws, regulations, good design principals, and state-of-the-art technology. The Board may require that applicants pay a "review fee" consisting of the reasonable costs to be projected to be incurred by the Board, for the employment of consultants engaged by the Board to assist in the review of the application.

4.2.2 Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special individual account for this purpose. Expenditures from this special account may be made at the direction of the Board, without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay all review fees shall be grounds for denial of the application or permit.

4.2.3 Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including any interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. The applicant must submit a written request for these funds. A final report for said account shall be made available to the applicant, upon request, or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with the documentation establishing such succession in interest.

4.3 Other Costs and Expenses

The applicant is responsible for preparing notices and associated costs of mailing to abutters and any parties in interest by certified mail, return receipt requested. The prepared notice shall be reviewed by the Board or its agent before being mailed by the applicant. Return receipts are to be addressed to the Planning Board for further verification. The prepared notices/certified mailing shall be delivered to the Planning Board agent not less than ten (10) business days before the date of the public hearing.

5.0 REVIEW

5.1 Review by Other Town Agencies

Prior to its formal review, the Planning Board shall distribute copies of the plans and supporting documents and information (within 5 business days of the receipt of the complete application) to the following town departments: Conservation Commission, Highway Department, Water and Sewer Department, Board of Health and Police and Fire Departments. These departments shall have thirty-five (35) days to review and submit written comments to the Board. Failure of the various Boards and Commission to make comments within the 35 day time frame shall be deemed lack of opposition thereto.

5.2 Report on Special Permit Decision

If a Special Permit decision does not incorporate the suggestions and/or requirements of any properly filed report(s) from other town departments or Boards, or from other entities commissioned by the Planning Board, or is issued contrary advisory reports, the Board, shall issue a written decision stating the reasons for not following the recommendations or requirements of said report(s).

5.3 Procedural Report

The Board, acting as the Special Permit Granting Authority, shall follow all procedural requirements of Chapter 40A, Section 9 of Massachusetts General Law. All applicants are advised to review this chapter in order to understand the Special Permit granting process. Public Hearing: The Planning Board shall schedule a public hearing within sixty five (65) days of receipt of an application. Notice of said hearing shall be advertised in newspapers of general circulation in the Town of Mattapoisett and mailed to parties of interest as required. Action by the Board: Within ninety (90) days of the close of the public hearing, the Planning Board shall file a decision with the Town Clerk, indicating approval, conditional approval, or denial of the Special Permit. When a petition or application has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision for that application by the Board.

6.0 DISPOSITION OF APPLICATION

6.1 Withdrawal of Application

An application may be withdrawn without prejudice by an applicant by notice in writing to the Clerk of the Board, which notice the applicant shall also deliver to the Town Clerk, at any time prior to the first publication of the notice of the public hearing. After such notice, withdrawal of an application shall be permitted only by Board vote, which shall consist of a majority present and voting.

6.2 Reconsideration

No vote on an application may be reconsidered after the meeting has adjourned.

6.3 Appeals

Any person aggrieved by a decision of the Board as Special Permit Granting Authority may appeal such decision as provided in M.G.L. 40A Section 17 within twenty (20) days after such decision has been filed in the office of the Town Clerk.

6.4 Reapplication

No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a Special Permit within two (2) years after the date of the said final unfavorable action, unless the Board finds, by vote of four members, specific and material changes in the condition upon which the previous unfavorable action was based and such changes are described in the record of the Board's proceedings, and after notice is hereby given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in Section 6.3 of these rules and regulations.

6.5 Lapse of Special Permit

No Special Permit shall be authorized by the Board without the express condition that it will lapse if substantial use under the permit is not commenced within two (2) years from the date of final action by the Board, except for good cause or the final determination of an appeal.

6.6 Extension of Special Permit

Approval in all cases is granted for a two (2) year period from the date of the filing of such approval with the Town Clerk. If a development is not completed in its entirety in that time, the applicant must petition the Planning Board for an extension detailing the circumstances and good cause for the lack of completion. The applicant shall apply for the extension sixty (60) days prior to the lapse of the Special Permit. The Planning Board may grant an extension not to exceed one year.

6.7 Recording

No Special Permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk, that twenty (20) days have elapsed after the filing of the decision and no appeal has been filed, is recorded in the Registry of Deeds and is indexed under the name of the record owner of the land.

7.0 PERFORMANCE GUARANTEE

As a condition of the Special Permit, the applicant shall post a bond, or other form of surety, as a safeguard for performance, and/or a penal sum in a form and amount acceptable to the Board, prior to the expiration of the twenty (20) day appeal period, unless the Board shall specify otherwise. If the applicant is not the owner and must purchase the property in question in order to assume such obligations, or if another form of ownership or control is in force, such person or entity shall comply with the provisions of this subsection within twenty (20) days following the date of such purchase or control. If said performance guarantee shall lapse before completion and certification of final inspection by the Board, a new guarantee shall be filed expeditiously by the application/controller of the land and/or project.

8.0 SEVERABILITY OF PROVISIONS

The provisions of these rules and regulations are severable. If any provision of these Rules and Regulation is held invalid, the other provisions shall not be affected thereby. If the application of these rules and regulations, or any of its provisions to any person or circumstances is held invalid, the application of these rules and regulations and their provisions to other persons and circumstances shall not be affected thereby.

9.0 WAIVER OF FULL COMPLIANCE

Full compliance with these rules and regulations may be waived by the Planning Board, provided such waivers are deemed to serve the public interest and are not conflicting with Chapter 40A M.G.L. or the findings required under the Special Residential Development bylaw. Requested waivers shall be submitted in writing at the time of the application.

10.0 VIOLATIONS

The Building Inspector shall provide written notice of any violation of this bylaw to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than 30 days be allowed for either compliance or revitalization of a plan for longer-term compliance. In the enforcement of this bylaw, the Building Inspector shall notify the Health Inspector of any violations and seek the Health Inspector and/or Agent's assistance.

