

ZONING BOARD OF APPEALS - CITY OF GREENFIELD

RULES & REGULATIONS

AS PROVIDED BY SECTION 12 OF CHAPTER 40A OF THE

MASSACHUSETTS GENERAL LAWS

ARTICLE 1 ORGANIZATION

Revised by the Zoning Board of Appeals June 19, 2008

SECTION 1 MEMBERS & OFFICERS

The Zoning Board of Appeals shall consist of five regular and two alternate members appointed by the Mayor. The regular members of the Board shall elect all officers of the Zoning Board.

SECTION 2 THE CHAIRPERSON: POWERS & DUTIES

The Chairperson shall vote and be recorded on all matters coming before the Board. Subject to these rules, he/she shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall appoint such committees as may be found necessary or desirable.

In addition to the powers granted by the General Laws of the Commonwealth of Massachusetts and the Zoning Ordinance of the City of Greenfield and subject to these rules and further instructions of the Board, the Chairperson shall transact the official business of the Board, supervise the work of the Clerk, request necessary help, direct the general work of the Board, and exercise general supervisory power. He/she shall at each meeting report the official transactions that have not otherwise come to the attention of the Board.

SECTION 3 THE VICE CHAIRPERSON: POWERS & DUTIES

In the event that the Chairperson is absent, disabled or otherwise unable to perform his/her duties, the Board may elect by majority a regular member to serve as acting Chairperson.

SECTION 4 CLERK: POWERS & DUTIES

The Clerk shall be the Permits Manager, and shall, subject to review by the Board and its Chairperson, supervise all of the clerical work of the Board including: all correspondence of the Board, sending of all notices required by law, preparation of rules and orders of the Board, receive and scrutinize all applications for compliance with the rules of the Board, keep dockets and minutes of the Board's proceedings, compile all required records, maintain necessary files and indices, and record the roll at all Board meetings. If the Clerk is absent, the Chairperson shall appoint an acting Clerk.

SECTION 5 ALTERNATE MEMBERS

Alternate members shall sit on the Board in case of the absence, inability to act or apparent conflict of interest on the part of any Board member, or as part of a regularly scheduled rotation among the regular members.

SECTION 6 QUORUM

Four members shall constitute a quorum.

SECTION 7 REGULAR MEETINGS

Regular meetings of the Board of Appeals are normally held on the second Thursday of each month at the Police Department Meeting Room, 321 High Street. If a regular meeting day falls on a holiday or any day of a national, state, or municipal election or caucus or primary or is in conflict with a session of a Town Meeting, the meeting may be held on the succeeding Thursday. Regular meetings shall be open to the public in accordance with Chapter 39, Section 23, a,b,c, of the Massachusetts General Laws. Except in an emergency, a notice of each Board meeting shall be filed with the City Clerk, and a notice or a copy thereof shall be publicly posted in the office of said Clerk or on the principle or official bulletin board in the City Hall at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meetings.

Business at regular meetings shall include site and other plan examinations and all other matters in the province of the Zoning Board including petitions for special permits and variances and appeals from the decision of the Building Inspector. Hearings on petitions and appeals before the Board may be held prior to or following the regular meeting, as designated by the Chairperson. Regular meetings, while open to the public, are not public hearings. The Board will seek information or testimony as it deems necessary. Unsolicited comments from the public may, at the discretion of the Chairperson, be ruled out of order.

Site plans, which come to the Zoning Board of Appeals, shall be sent to the Planning Board for an advisory opinion and to the Zoning Enforcement Officer as required by the Bylaw. Site plans need not be approved by the Zoning Board of Appeals until those Boards have had opportunity for review, as specified by the Zoning Bylaw.

SECTION 8 SPECIAL MEETINGS

Special meetings may be called by the Chairperson, or at the request of three members. Written notice thereof shall be given to each member and alternate member at least 48 hours before the time set, except that an announcement of a special meeting at any meeting attended by all members shall be sufficient notice of such meetings. Notices shall be posted publicly as provided in Section 7.

ARTICLE II

APPLICATIONS TO THE BOARD

SECTION 1 APPLICATION FORM

Every application for action by the Board, including appeals from decisions of the Inspector of Buildings and petitions for variances and special permits shall be made on the official form of the Zoning Board of Appeals which shall be furnished by the City Clerk or the Permits Manager upon request. Any communication purporting to be an application shall be treated as merely advisory and no notice shall be deemed to have been given, until such time as it is made on the official application form and filed with the City Clerk and the Permits Manager. Information called for by the form shall be furnished by the applicant in the manor therein prescribed at the time of application. The application forms shall be considered part of these Rules and Regulations.

SECTION 2 FILING

Every application shall be filed with both the City Clerk and the Permits Manager. The Permits Manager shall forthwith transit a copy of the application, certified by the City Clerk, to the Board of Appeals. The Permits Manager, who acts as agent for the Board of Appeals, shall indicate the date on which the application was received and transmit a copy of the dated application to the applicant. The date of receipt as indicated by the Permits Manager shall be considered to be the date on which the application has been filed with the Board of Appeals. It shall be the responsibility of the applicant to furnish all supporting documentation with the application, and the dated copy received from the Permits Manager does not absolve the applicant from this responsibility, and lack of required information may result in denial of application.

SECTION 2.1 FILING AND SUBMITTAL REQUIREMENTS

The completed application form, certified by the City Clerk, shall be accompanied by twelve (12) copies of a site plan. All site plans shall be prepared to scale and shall, at a minimum, accurately show the following information if applicable. Note: Large projects must be of a scale determined by the Planning Department and Inspector of Buildings.

1. A locus map;
2. Plans shall be submitted on 8½” x 11” or 11” x 17” paper - drawn to scale; with the scale used clearly written on the site plan.
3. The locations and boundaries of the lot, adjacent streets or ways, with names, and the location, use, and owner’s names of all abutting properties with north point, Zoning District(s), graphic scale, date of plan, and name of applicant, designer and surveyor;

4. Existing and proposed vegetation and topography, including contours, the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding, and unique natural land features;
5. Existing and proposed structures, including dimensions; existing structures in black and proposed structures in another color;
6. The location of parking and loading areas, driveways, walk ways, access and egress points and distance to the nearest driveways and intersections;
7. The location and description of all proposed septic systems, water supply, storm drainage systems, utilities, lighting, and refuse and other waste disposal methods;
8. Proposed landscape features including the location and a description of screening, fencing and plantings;
9. The locations, dimensions, height and characteristics of proposed signs;
10. The location and a description of proposed open space of recreation areas.
11. A snow removal plan.
12. Percentage of Open Space.
13. Handicapped parking/access.
14. Bicycle Parking.
15. The existing and proposed interior layout of the structure.
16. The location and description of all existing and proposed exterior storage.
17. The location and description of all existing and proposed easements.
18. Date of plan.

The applicant shall also submit the following information:

1. Measures to prevent pollution of surface and groundwater, increased runoff, changes in groundwater levels, and flooding;
2. Design features which will integrate the proposed development into the existing landscape, maintain neighborhood character, enhance aesthetic assets and screen objectionable features from neighbors and roadways;
3. Control measures to prevent erosion and sedimentation during and after construction and the sequence of grading and construction activities, location of temporary control measures, and final stabilization of the site;
4. Estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow patterns for both vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.

Failure to comply with these requirements may result in a dismissal of an application as incomplete. The Zoning Board of Appeals may require further information to be shown on the plan if deemed necessary for a complete review of the proposed project. In addition, an application for a special permit shall contain all other information required by the Greenfield Zoning Ordinance. For larger projects, the preferred scale is 1 inch = 40 feet. The Zoning Board of Appeals shall have the authority to alter or waive these requirements as it deems necessary or appropriate in particular cases.

SECTION 2.2 FEES

All applications shall be accompanied by cash or certified check, payable to the City of Greenfield, in the amount as stated on the fee schedule.

SECTION 2.3 FEES FOR OUTSIDE CONSULTANTS

In addition to the fees payable pursuant to Section 2.2, the applicant shall pay the reasonable fees for the employment of outside consultants who, in the discretion of the Zoning Board of Appeals, are necessary to provide guidance on a specific project. The appointment of such an outside consultant shall be subject to the right of appeal by an applicant pursuant to the provisions of General Laws Chapter 44, Section 53G. The funds received for outside consultants shall be deposited in a special account and shall be expended by a majority vote of the Zoning Board of Appeals without further appropriation and shall be subject to such other provisions contained in said Section 53G. The payment of fees for such outside consultants shall be made by the applicant prior to the vote by the Zoning Board of Appeals to approve or disapprove a project.

The selection of an outside consultant may be appealed to the City Council. Such appeals are limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications consist of either an educational degree in the field at issue or a related field, or three or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the Zoning Board of Appeals shall be extended by the duration of the administrative appeal. In the event that no decision is made by the City Council within one month following the filing of the appeal, the selection made by the Planning Board shall stand.

Any excess amount in review fees paid by the applicant, including any accrued interest, at the completion of the project shall be repaid to the applicant or to the applicant's successor in interest, and a final report on expenditures made from the fees shall be made available.

SECTION 2.4 ABUTTERS LIST

Each application for a special permit shall be accompanied by a list of all names and addresses within three hundred (300) feet of the property line of the subject property, and landowners directly opposite on any public or private street, as well as abutting towns. Names and addresses shall be in label format and shall be listed as they appear on the most recent applicable tax list.

SECTION 3 HEARINGS

- 3.1 A public hearing on an application for a special permit shall be held within sixty-five (65) days of filing the application with the City Clerk. A public hearing for a variance shall be held within seventy-five (75) days of the application date with a decision filed with the City Clerk within fourteen (14) days of decision.
- 3.2 Hearings to be Public - All hearings shall be open to the public. No person shall be excluded unless considered by the Chairperson to be a “serious hindrance” to the workings of the Board.

3.3 Representation and Absence - An applicant may appear in his/her behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the Board may decide on the matter using the information it has otherwise received.

3.4 Order of Business

- a. Reading of petition and legal notices, if any.
- b. Applicant's presentation together with presentation of exhibits.
- c. Questioning by Board.
- d. Public comments, if any, and questions by those seeking information.
- e. Applicant's rebuttal, restricted to matters raised by opponent's presentation and/or Board's questions.

Members of the Board may direct questions at any point during the Public Hearing.

SECTION 4 ACTIONS BY THE ZONING BOARD OF APPEALS

4.1 Decisions - A decision on a special permit shall be filed with the City Clerk within ninety (90) days after the public hearing is closed. The required time limits for a public hearing and decision may be extended by written agreement between the petitioner and the Zoning Board of Appeals. Failure of the Zoning Board of Appeals to take action within ninety (90) days or extended time shall be deemed to be a grant of the special permit.

4.2 Voting Requirements and Records - A special permit or variance decision shall require a concurring vote of four (4) members of the five (5) member Zoning Board, with each member who is sitting must record either yes or no. The record shall also show if a member is absent. The Board shall also clearly set forth the reasons for its decision. The detailed record of the proceedings, including the decision, the vote on the decision, and the reasons for the decision shall be filed with the City Clerk within fourteen (14) days of the decision. A notice of such decision shall be mailed forthwith to the petitioner, to all parties to whom notice of the hearings was mailed, and to every person present at the hearing who requested a notice to be sent and stated the address to which such notice to be sent, the Planning Board, and where applicable, to the Board of Health, the Conservation Commission, and other City boards or departments. Each notice shall specify that appeals, if any, shall be pursuant to MGL Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of filing such notice with the City Clerk.

SECTION 5 WITHDRAWAL

Any application for a special permit may be withdrawn without prejudice by notice in writing to the Zoning Board of Appeals with a copy to the City Clerk prior to the publication of the public hearing notice by the Board. Requests to withdraw without prejudice after publication of the public hearing notice may be granted by a majority vote of the Board upon written request from the applicant.

SECTION 6 RECONSIDERATION

Once a decision has been voted upon and the meeting adjourned there shall be no reconsideration of a decision by the Board, unless remanded by the Court.

SECTION 7 EXPIRATION

Variations must be exercised within one (1) year of decision if the Zoning Board of Appeals has not, upon request, extended the variance for six (6) months. Special permits shall expire within two (2) years of approval, if a substantial use thereof or if construction has not commenced. An extension may be granted by the Board for the time period required to pursue or wait for the determination of an appeal under MGL Chapter 40A, Section 17 or for other good cause.

SECTION 8 RE-APPLICATION

No appeal, application or petition which has been unfavorably and finally acted upon by the Zoning Board shall be acted favorably upon within two (2) years after the date of final unfavorable action unless the Board finds, by a vote of four (4) members of the five (5) member Board, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one of the members of the Zoning Board of Appeals consents thereto and after notice is given to parties of interest of the time and place of the proceedings when the question of such consent will be considered. The applicant shall be responsible for the cost of such notice.

SECTION 9 OPINIONS AND ADVICE

Any advice, opinion, or information given by any Board member or any other official or employee of the City shall not be binding on the Board.

SECTION 10 AMENDMENTS

These Rules may be amended by a majority vote of the members of the Board, provided that such amendment shall be presented in writing at a public meeting held by the Zoning Board and action taken thereof at a subsequent regular meeting. The amendment of the General Laws or Zoning Bylaw with respect to any matter covered by these Rules and Regulations will constitute automatic amendment.

SECTION 11 WAIVER

Strict compliance with these Rules and Regulations may be waived when, in the judgment of the Zoning Board of Appeals, such action is in the public interest.

SECTION 12 OTHER PROVISIONS

When considering approval of special permits, the Zoning Board of Appeals may require on-going monitoring of certain aspects of the project at the applicant's expense.