

RULES AND REGULATIONS GOVERNING SPECIAL PERMITS
TOWN OF STURBRIDGE
PLANNING BOARD

Adopted December 3, 2002

1.00 PURPOSE AND AUTHORITY

The following rules are hereby adopted by the Sturbridge 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

2.00 ADOPTION AND AMENDMENT

These rules and regulations may be adopted and from time to time amended by majority vote of Board members present and voting, provided such adoption or amendment is taken at a duly posted meeting.

2.01 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, date of adoption and amendments.

3.0 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) or property interest and authority to file.

4.0 APPLICATION FOR SPECIAL PERMITS

4.01 Official Application Form

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

4.02 Contents of Application

The completed application form, original plan, and fifteen (15) copies shall be submitted to the Planning Board at a scheduled meeting with an additional copy filed forthwith with the Town Clerk by the applicant. The effective date of the submittal shall be the date the plans are submitted to the Board at its meeting. The following

information shall be furnished by the applicant, or a waiver, previously granted by the board, for any items not included:

1. 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;
2. A professional engineer, registered architect or registered landscape architect shall prepare the plan;
3. 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(s), setbacks and all other required dimensions, elevations and measurements and shall be signed under the penalties of perjury;
4. The scale, date and north arrow shall be shown;
5. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways;
6. The location of existing or proposed building(s) on the lot shall be shown with the total square footage and dimensions of all buildings and building elevations and floor plans, and perspective renderings;
7. The location of existing wetlands, water bodies, wells, one-hundred year floodplain 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;
8. 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;
9. Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, and access within the property;
10. Existing and proposed topographical lines at two-foot contour intervals on the tract and within 50' thereof;
11. The location and a description of proposed open space or recreation areas;
12. Existing and proposed street, parking, drainage, and utility systems shall be prepared by a professional engineer registered in Massachusetts;

13. The applicant shall submit information regarding all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding;

14. Projections of down gradient concentrations of nitrogen, phosphorus, and other relevant chemicals to be disposed of on-site, at property boundaries; and at other locations deemed pertinent by the Board, prepared by a Hydrogeologist or Registered Professional Engineer possessing experience and education in Water Supply Protection and Hydrology;

15. Any additional information which the Board may require. The Board may engage a Massachusetts Professional Engineer experienced in groundwater evaluation, hydrogeology 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

16. 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;

17. 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.

18. The applicant shall furnish a current Certified Abutter's List from the Assessor's Office and a Certificate of Taxes Paid from the Finance Director.

19. The applicant shall furnish stamped, addressed envelopes, developed from the abutters list to the Planning Board clerk at the time of application. The notice shall be prepared and mailed by the clerk of the Planning Board, who will submit an affidavit of service to the Board.

5.0 FEES

All applications shall be accompanied by two certified checks made payable to the order of the Town of Sturbridge. 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.

5.01 Administrative Fee

The filing fee shall be two hundred dollars (\$200.00) for a Special Permit application.

5.02 Consultant Review Fee/Special Account

Every Special Permit application shall be required to file the following minimum review fee to establish an individual special account. If, in addition, this minimum amount is not sufficient to cover the entire cost of the review, the Board shall adjust said special account. The minimum fee and the adjustment schedule are as follows

0 to 5 acres	\$1,000	6 to 10 acres.....	\$ 2,000	11 to 20 acres	\$4,000
21 to 30 acres	\$6,000	greater than 30 acres.....	\$8,000		

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.

Funds received by the Board pursuant to this section shall be deposited with the Finance Director, 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.

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 remitted 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.

Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen, providing that such appeal is taken within 14 days of notification of the Board's appointment of the consultant. 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 as may be set by

the Board. The minimum qualifications shall consist either of a four-year college level educational degree in, or one related to, the field of knowledge at issue or three or more years of practice in the field at issue or a closely related field. Minimum qualifications may be changed at the Board's discretion depending upon the complexity and/or importance of the proposed project. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. 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 Board shall stand.

5.03 Other Costs and Expenses

The applicant shall pay all associated costs of mailing to abutters and any parties in interest at the commencement of the public hearing

6.0 REVIEW

6.01 Reviews by Other Town Agencies

Whenever an application for a Special Permit is filed with the Board under this section, the applicant shall transmit within six working days of the filing of the completed application, copies of the application, accompanying site plan, and all other documentation submitted with the application to the Planning Department, Board of Health, Conservation Commission, Water and Sewer Commission, Building Inspector, Fire Chief, the Department of Public Works Director and Police Chief for their consideration, review and report.

Town Agencies reviews and reports shall contain the proposed conditions which the officials or Boards may determine to be appropriate if the Special Permit is to be granted and shall include a draft of the specific language of the conditions. An application shall not be deemed complete until all copies of all required information and documentation have been filed with the Board and distributed to the various Boards, Commissions and Departments.

Reports shall be submitted by the date of the public hearing, but in any case within thirty-five (35) days of receipt by the reviewing party of all of the required materials, otherwise failure of any reviewing party to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Board is held prior to the expiration of the 35 day period, the Board shall continue the public hearing to permit the formal submission of reports and recommendations within the 35 day period.

6.02 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 if it is issued contrary or conflicting advisory reports, the Planning Board shall issue a written decision stating the reasons for not following the recommendations or requirements of said report(s).

6.03 Procedural Requirements

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.

6.04 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 Sturbridge and mailed to parties in interest as required.

6.05 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.

6.06 Reconsideration

After 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.

7.0 DISPOSITION OF APPLICATION

7.01 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.

7.02 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 Chapter 40A, Section 17 within twenty (20) days after such decision has been filed in the office of the Town Clerk.

7.03 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 6.04 of these rules and regulations.

7.05 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, as determined by the Board.

7.06 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 within that time, the applicant must again petition the Planning Board for re-approval. The applicant shall apply for re-approval sixty days prior to the lapse of the Special Permit. All applications under this section must comply with the bylaw and its rules and regulations in force at the time of application.

8.0 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, and a Book and Page reference for said filing presented to the Board and the Building Inspector.

9.0 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.

10.0 WAIVER OF FULL COMPLIANCE

10.01 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. Requested waivers shall be submitted in writing before the application is submitted.

11.0 COMPLETENESS REVIEW

Any application which does not conform to the requirements herein, or without the proper fee, shall be returned to the applicant with a statement of its deficiencies, and the plan shall not be accepted for review by the Board until the deficiencies are corrected. The Board's designee will be responsible for ensuring the completeness of all applications and shall give written notice by registered mail to the applicant of any deficiencies with the application within fourteen (14) days of submission to the Board, at its meeting, specifying the deficiencies. The applicant shall have 14 days from the date of the mailing of such notice to correct the deficiencies. Failure to correct the deficiencies after having been so notified within such time shall be used as the basis for denial of the application without prejudice. Submissions pertaining to consultant review fees are not required prior to application acceptance.

12.0 VIOLATIONS

Written notice of any violation of this bylaw shall be provided by the Building Inspector 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's and/or Agent's assistance.

13.0 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.