

**TOWN OF STURBRIDGE
ZONING BOARD OF APPEALS**

RULES AND REGULATIONS GOVERNING COMPREHENSIVE PERMITS

Adopted May 22, 2002
Revised June 12, 2002

1.0: AUTHORITY

These rules establish procedures for applications to the Sturbridge Zoning Board of Appeals for comprehensive permits under M.G.L. Chapter. 40B, Section 21 as amended.

1.1 These rules and regulations may be adopted and from time to time amended by majority vote of the Sturbridge Zoning Board of Appeals members present and voting.

1.2 These rules and regulations are effective when voted, and a copy filed with the office of the Town Clerk, with appropriate endorsements.

2.0 DEFINITIONS

2.1 Board means the Sturbridge Zoning Board of Appeals (ZBA.) established under M.G.L. Chapter 40A, Section 12 and the Charter, Town of Sturbridge, Section 4-10.

2.2 Local Board means any local board or official, including, but not limited to the Board of Health; Planning Board; Conservation Commission; Historical Commission; water, sewer or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; Board of Selectmen and Town Administrator. All boards, regardless of their geographical jurisdiction or their source of authority (that is, including boards created by special acts of the legislature or by other legislative action) shall be deemed local boards if they perform functions usually performed by locally created boards.

3.0 APPLICATION FOR COMPREHENSIVE PERMIT

An application or petition for a Comprehensive 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.

3.1 Official Application Form: Application for Comprehensive Permits shall be made on an official form, furnished by the Clerk of the Zoning Board of Appeals.

3.2 Contents of The Application: The completed application form, original plan, and twenty-five (25) copies shall be submitted to the Zoning Board of Appeals at a regularly scheduled meeting, with an additional copy filed forthwith with the Town Clerk by the applicant. All fees must accompany the application. Failure to file a completed application, with all

materials and information as requires herein, may be grounds for denial of an application. The following information shall be furnished by the applicant:

3.2.1 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;

3.2.2 A Massachusetts registered engineer or architect shall prepare the required plans; that shall bear the seal and signature of said professional.

3.2.3 The plan shall be stamped by the Massachusetts registered land surveyor who performed the instrument boundary survey and who shall certify the accuracy of the locations of the buildings, setbacks and all other required dimensions, elevations and measurements, adjacent property wells and septic systems. The plans shall be signed under the penalties of perjury.

3.2.4 The scale, date and north arrow shall be shown;

3.2.5 Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways;

3.2.6 The location of existing or proposed building(s) on the lot shall be shown with the total square footage and dimensions of all buildings, building elevations, floor plans, (including size and number of bedrooms with floor area) and perspective rendered elevations;

3.2.7 The location of existing wetlands, unique vegetation, (shall be performed by a Massachusetts registered arborist) 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;

3.2.8 A landscape plan to include the total square footage of all landscape and recreation areas, and depiction of materials to be used, and the quantity, size, methods, and species of plantings;

3.2.9 Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, and access within the property;

3.2.10 Existing and proposed topographical lines at two-foot contour intervals on the tract and within 50' thereof;

3.2.11 The location and a description of proposed open space or recreation areas;

3.2.12 Existing and proposed street, parking, drainage, and utility systems; prepared by a professional engineer registered in Massachusetts;

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

3.2.14 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 hydro-geologist or Registered Professional Engineer possessing experience and education in Water Supply Protection and Hydrology.

3.2.15 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.

3.2.16 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.

3.2.17 A certified list of abutters as defined under M.G.L. 40A Section 11 from the Town Assessors.

3.2.18 A Stormwater Management Plan with drainage calculations.

3.3 State subsidized low and moderate income units shall retain "low and moderate certification" for ninety-nine (99) years.

3.4 An inclusive list, with specific references, of all requested exemptions from the Town's Bylaws, Ordinances, Codes or Regulations.

3.5 All documentations specified in 760 CMR 31.01, Jurisdictional Requirements, to show the status of the applicant and the acceptability of the site and/or a project eligibility letter.

4.0 LAYOUT AND DESIGN STANDARDS

The Board considers the following layout and design standards to be consistent with local needs and vital for the protection of local welfare.

4.1 All streets, drainage, water system, sewerage, utilities, grading, and other improvements shall be made in accordance with the Rules and Regulations by the recommendations of other boards, committees, officials and state regulations.

4.2 Fencing as required by the Board for safety and or screening.

4.3 An upkeep and maintenance plan with supporting legal documents.

4.4 All exterior lighting shall be limited to 15 feet in height and shall cast a maximum of 8 foot candles of light on the ground. Lighting shall also be directed so as not to blind vehicle or pedestrian traffic, adjacent buildings or dwellings within or abutting the site.

4.5 All rubbish and trash containers shall be screened from view by fencing or landscaping. Said containers shall have heavy duty plastic tops to reduce noise when being serviced.

4.6 Buildings shall be a maximum mean height of thirty (30) feet.

4.7 For attached unit buildings the minimum setback from the property lines shall be two (2) times the height of the building. The setback between separate unit buildings shall be equal to or greater than the height of the highest building.

4.8 Utilities shall be underground, starting from the property line.

4.9 No parking lot or building construction shall be allowed within 100 feet of a wetland area or within 200 feet of a wetland protected by the Rivers Act (310 CMR 10.00)

4.10 All storm water runoff from impervious surfaces shall be recharged on-site unless, in conducting its review, the Board determines that either recharge is not feasible because of unique site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Such recharge shall be by surface infiltration through vegetated surfaces unless otherwise approved by the Board during the site plan review. If dry wells or leaching basins are approved for use, they shall be constructed after oil, gas and sediment traps have been installed. Drainage from loading areas for toxic or hazardous materials shall be separately collected for safe disposal. All drainage structures including outlets shall have a minimum thirty (30) foot vegetated buffer to wetlands.

4.11 Soil shall not be lowered to finished exterior grades less than five (5) feet above maximum groundwater elevation, unless technical evidence is provided to the Board's satisfaction that groundwater quantity or quality will not be detrimentally affected. Technical evidence may include, without limitation, a determination of soils and geologic conditions where evaporation/transpiration occurs.

4.12 A paved secondary access roadway shall be provided, if deemed necessary or required by the ZBA.

4.13 A safety and evacuation plan shall be prepared that shall anticipate the needs of ambulance, civil defense, fire, police, and rescue services.

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.

5.1 Administrative Fee: The administrative filing fee shall be a base fee of two thousand dollars (\$2,000.00) and an additional one hundred dollars (\$100) for each residential unit applied for.

5.2 Other Administrative Costs and Expenses: The applicant is responsible for preparing notices and associated costs of mailing to abutters and any parties in interest (as referenced in the Comprehensive Permit Application) by certified mail, return receipt requested. The prepared notice shall be reviewed by the Zoning Board of Appeals or its agent before being mailed. Return receipts are to be addressed to the Zoning Board of Appeals. The prepared notices/certified mailing shall be delivered to the Zoning Board of Appeals agent not less than twenty one (21) business days before the date of the public hearing.

6.0 OUTSIDE CONSULTANTS

The Board may hire outside consultants for review and analysis of any application when the board determines it appropriate, pursuant to G.L. Ch. 44, sec. 53G and G.L. Ch. 40B, sec. 21 and through this regulation. The Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposal; the complexity of particular technical issues; the potential impact of the proposal; or the character of the site. The cost for all the outside consultants shall be borne by the applicant as set forth below.

6.1 Consultant / Legal / Review Fee / Special Account: Every Comprehensive 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 at the applicant's expense. When the special account reaches seventy- five percent (75%) expenditures, the applicant will be required to deposit additional funds for anticipated expenses as determined by the Zoning Board of Appeals. The minimum fee and the adjustment schedule are as follows:

0 -5 acres = \$5,000 6-10 acres = \$7,000 11-20 acres = \$9,000 21 + acres = \$11,000

6.2 The Board may require that the applicant pay a review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

6.3 In hiring outside consultants, the Board may engage engineers, planners, traffic consultants, attorneys, housing specialists and financial analysts, and/or other appropriate outside consultants who can assist the Board in reviewing and analyzing the proposal. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue of three or more years of practice in the field at issue or a related field.

6.4 Funds received by the Board pursuant to this section shall be deposited with the Finance Director, who shall establish a special account for this purpose in accordance with the provisions of Chapter 44, Section 53G of the General Laws. Expenditures from this special account may be made at the discretion of the Board in connection with the hearing of a specific proposal for which a review fee has been collected from the applicant without further appropriation. Failure of an applicant to pay a review fee shall be grounds for denial of the comprehensive permit.

6.5 Review fees may only be spent for services rendered in connection with the specific proposal for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a proposal, any excess amount in this 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 an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

6.6 Any applicant may take an administrative appeal from the selection of an outside consultant(s) to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant(s) selected has a conflict of interest or does not possess the

minimum, required qualifications. The time limit for the Board's action on the proposal shall be extended by the duration of any such administrative appeal. In the event that no decision regarding the appeal is made by the Board of Selectmen within one month following the filing of such appeal, then the selection of the Board of Appeals shall stand.

7.0 REVIEW AND PUBLIC HEARING AND DECISION

7.1 Review by Other Town Agencies: Prior to its formal review, the Zoning Board of Appeals shall distribute copies of the plans and supporting documents and information within 5 business days of the receipt of the completed application to the following town departments: Building Inspector and Zoning Officer, Conservation Commission, Planning Board, Department of Public Works, Board of Health, Police, Fire, Sewer Commission and Board of Selectmen. These departments shall have thirty-five (35) days to review and submit written comments to the Board.

7.2 The Board shall hold a public hearing on the application within thirty (30) days of its receipt. It may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.

7.3 The Board shall render a decision, based on a majority vote of the Board, within forty days (40) after termination of the comprehensive permit hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received, all information requested by the Board received, and the hearing declared closed by the chairman of the Board after an affirmative vote of the Board members.

7.4 The Board may dispose of the application in the following manner:

A. approve a comprehensive permit on the terms and conditions set forth in the application,

B. deny a comprehensive permit as not consistent with local needs, or

C. approve a comprehensive permit with conditions including but not limited to height, site plan, size, shape or building materials and ZBA rules and regulations, that do not render the construction or operation of such housing uneconomic.

7.5 If the Board approves the comprehensive permit, any aggrieved citizen may appeal within the time period to the court provided in M.G.L. Chapter 40A, Section 17.

7.6 If the Board denies the comprehensive permit or approves the permit with conditions or requirements unacceptable to the applicant, the applicant may appeal to the Housing Appeals Committee (H.A.C.) as provided in M.G.L. Chapter 40B, Section 22.

7.7 No comprehensive 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 appeals has been filed, is recorded in the Registry of Deeds and is indexed under the name of the owner of record of the land.

7.8 No comprehensive permit shall take effect until the Sturbridge Board of Health certifies the wells and septic systems meet the relevant sections of Title V and a Conservation Commission written decision of approval, or a determination of applicability, or order of conditions, has been filed.

8.0 PERFORMANCE GUARANTEE

As a condition of the Comprehensive 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. (Sum of bond shall be determined by the engineer or engineers as set forth by the Board to be the total of cost of roadways, septic system, parking areas and such estimated by the Town's engineer.)

9.0 VIOLATIONS

Written notice of any violation of these ZBA adopted rules and regulations 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 revision of a plan for longer-term compliance. In the enforcement of these ZBA rules and regulations, the Building Inspector shall notify the Health Inspector of any violations and seek the Health Inspector's and/or Agent's assistance.

10.0 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.