

RULES  
AND  
REGULATIONS



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DUNSTABLE PLANNING BOARD

GOVERNING SPECIAL PERMITS

IN DUNSTABLE, MASSACHUSETTS

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REVISED October 19, 2009

# SPECIAL PERMIT RULES AND REGULATIONS

## SECTION I. GENERAL

The Planning Board, the Board of Selectmen or the Board of Appeals shall be the Special Permit Granting Authorities as specified in the various sections of the Zoning Bylaw and shall hear and decide applications for Special Permits upon which they are empowered to act under the Zoning Bylaw. These rules and regulations shall govern the submittals to the Planning Board. Upon receipt of an application for a Special Permit, the Planning Board shall refer the application and Site Plan to such boards and officials as they deem appropriate and shall not hold a public hearing on the application until such time as reports have been received from all boards and officials to whom such has been referred or thirty-five (35) days have elapsed following referral without receipt of such reports whichever occurs sooner. No request for a Special Permit shall be granted unless and until the Planning Board makes a written finding as to each of the following, which it finds applicable to the application before it:

1. The proposed construction or use is consistent with the general purposes of the Zoning Bylaw;
2. The proposed construction or use will not impair the integrity of the district and adjoining districts;
3. The proposed construction or use will not be detrimental to the health and welfare of the occupants and users thereof, and citizens of the Town;
4. The proposed construction or use will not be detrimental to the value of nearby property;

## SECTION II. FILING

All applications and re-applications for Special Permits must be filed by the applicant with the Town Clerk; and further that the applicant shall file a copy of the application showing the date and time of filing certified by the Town Clerk with the Planning Board. Each application to the Board shall include the following:

### 1. Application Form

Every application for action by the Board shall be made on the official forms including the certified list of abutters and parties in interest. These forms shall be furnished by the Planning Board upon request. Any communication purporting to be an application shall not be treated as such until such time as it is made on the official application form. All information called for by the form shall be furnished by the applicant in the manner therein prescribed.

### 2. Site Plan

See Site Plan Rules and Regulations for Site Plan requirements.

### 3. Filing Fee

The initial fees required shall consist of two parts: the first being an administrative fee and the second a review fee. The amount of the fees shall be submitted with the application as listed in the *PLANNING BOARD FEE SCHEDULE*. The review fee shall be used to pay fees associated with the technical review of the project. The Board shall return all money remaining from the review fee account to the applicant, within a reasonable amount of time,

upon final action. If the cost of review exceeds the amount of money in the account, the applicant shall deposit an additional sum, as required by the Board, before the review will continue or further action is taken by the Board.

Special Permit (Commercial or Industrial only): Before construction begins, an inspection fee shall be submitted to the Planning Board office, in the amount listed in the fee schedule, with the option of the Board to require additional increases (as per the fee schedule) each time the inspection fee falls below \$1,000.00.

### **SECTION III. HEARINGS**

#### **1. Timing**

A public hearing shall be held on each application no later than sixty-five (65) days, but no earlier than thirty-five (35) days from the date of application filing if the Planning Board deems it advisable to have other board and officials review the application and plans unless all the other boards and officials earlier respond.

Notice of hearings shall be advertised by the Town of Dunstable at the applicants expense as required by the provisions of the Massachusetts General Laws, Chapter 40A (each of two successive weeks but not less than fourteen (14) days prior to the hearing date in a newspaper of general local circulation plus posting in Town Hall). In addition, a copy of the advertised notice shall be sent by mail by the Board, at least seven (7) days prior to the date of the hearing, postage prepaid, to the applicant or petitioner, and to the parties in interest.

#### **2. Hearings to be Public**

All hearings shall be open to the public. No person shall be excluded unless he is considered by the chairman to be a serious hindrance to the conduct of the hearing.

#### **3. Representation and Absence**

An applicant may appear in his own 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.

#### **4. Brief to the Board**

It is recommended that every application for a special permit be supported by a brief setting forth in detail all facts relied upon by the parties.

#### **5. Order of Business**

Reading of petition and legal notices by the Clerk, together with presentation of exhibits including written briefs received, if any.

- a. Applicant's presentation.
- b. Opponent's presentation, if any, and questions by those seeking information.

- c. Applicant's rebuttal restricted to matters raised by opponent's presentation.
- d. The Board shall set a closing date for receipt of any additional written arguments and if no such date is established the hearing record shall close upon termination of the public hearing.

Members of the Board who are hearing the case may direct appropriate questions during the hearing.

## **SECTION IV. DISPOSITION**

1. The failure of any board or agency to which a application for a special permit is referred for recommendation and/or a report to make such recommendation and/or the report within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed approval thereto.

### **2. Voting Requirement**

The concurring vote of at least four (4) members of the Board shall be necessary in any action taken by the Board.

The record shall show the vote of each member upon each question, or if absent or failing to vote, indicate such fact. It shall, in addition, set forth clearly the reason or reasons for its decisions.

### **3. Withdrawal**

An application may be withdrawn without prejudice by the petitioner by notice in writing to the Town Clerk at any time before the publication of the notice of the public hearing by the Board but thereafter be withdrawn without prejudice only with the approval of the Board at a scheduled hearing.

### **4. Reconsideration**

Once a decision has been voted upon and the meeting at which the decision was made is closed, there shall be no reconsideration of a decision of the Board.

### **5. Reapplication**

No appeal, application or petition which has been unfavorable and finally acted upon by the 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 members that specific and material changes in the application now meets conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings. This meeting will be held only after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

### **6. Limitation on Grants: Extensions**

If an application is granted by the Board construction or use shall commence within eighteen (18) months from the date of filing of the Board's decision in the office of the Town Clerk unless good cause is shown by the applicant. If construction or use does not start within said 18 months and an extension is not granted by the Board, the approval shall expire.

### **7. Lack of Decision**

If no decision is made within ninety (90) days of the close of the public hearing the application is deemed to be granted.

## 8. Decisions

All Special Permits acted upon by the Planning Board shall be recorded on the official Notice of Decision - Special Permit (attached) and Special Permit Decision forms, the latter to contain a detailed record of the proceedings, the reasons for the decision, and a certification that copies of the decision have been forwarded to the Town Clerk within fourteen (14) days of the decision.

## 9. Effective Date of Special Permit

No Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the North Middlesex District and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

## 10. Distribution

Copies of the Special Permit Decision and Notice of Decision - Special Permit shall be mailed, postage prepaid, by the Clerk of the Planning Board to the owner, the applicant if different from the owner, the Town Clerk and the Building Inspector. Copies of the Notice of Decision - Special Permit shall be sent to those interested parties furnishing their name and address to the Clerk at the close of the public hearing.

## APPLICATION FOR A SPECIAL PERMIT

This application must be completed, signed, and submitted with the filing fee by the Applicant or his representative in accordance with the Planning Board Rules and Regulations as adopted under its jurisdiction as a Special Permit Granting Authority and the procedures as set forth in said Rules and Regulations.

Type of Special Permit Requested \_\_\_\_\_

Location of Property \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Applicant is: Owner \_\_\_\_\_ Tenant \_\_\_\_\_

Agent/Attorney \_\_\_\_\_ Purchaser \_\_\_\_\_

Property Owner's Name \_\_\_\_\_ Address \_\_\_\_\_

Property Characteristics: Lot Area \_\_\_\_\_ Present Use \_\_\_\_\_

Assessor's Map \_\_\_\_\_ Lot \_\_\_\_\_ Present Zoning \_\_\_\_\_

Nature and justification of request for a special Permit under Zoning Bylaws (Attach separate sheet if necessary):  
\_\_\_\_\_  
\_\_\_\_\_

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

Signature of Applicant (or representative) \_\_\_\_\_

Address (If not Applicant) \_\_\_\_\_

Telephone \_\_\_\_\_ Owners Permission if Other Than Applicant \_\_\_\_\_

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Application reviewed and Account Deposits received in the amount of:

FEE: \$ \_\_\_\_\_; Advertising: \$ \_\_\_\_\_;

Received by \_\_\_\_\_; Date \_\_\_\_\_

Certified List of Parties in Interest

Special Permit

(Must be submitted with Special Permit Application)

\_\_\_\_\_, 20 \_\_\_\_

To the Planning Board of the Town of Dunstable,

The undersigned, being an applicant for approval of the special permit for the land shown on Assessors Map No. \_\_\_\_\_ as Lot No. \_\_\_\_\_ submits the following sketch of the land listing the names of the adjoining owners in their relative positions and indicating the address of each party in interest in a separate list. Parties in interest include owners of land in question, owners of land which lie within 300 feet of a boundary or part thereof of the land in question, owners of land directly opposite any public or private street or way; all as they appear in the most recent applicable tax list notwithstanding that the land of any such owner is located in another town, the Planning Board of Pepperell, Groton, Tyngsborough, Nashua, NH, Hollis, NH and The Dunstable Building Inspector as prescribed in M.G.L. Chapter 40A, Section 11.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Massachusetts

\_\_\_\_\_, 20 \_\_\_\_

To the Planning Board of the Town of Dunstable

This is to certify that at the time of the last assessment for taxation made by the Town of Dunstable, the names and addresses of the parties in interest to the parcel of land shown above were as above written, except as follows:

Certified: \_\_\_\_\_

Assessor, Town of Dunstable