

PLYMOUTH
ZONING BOARD OF APPEALS
PROCEDURAL RULES and REGULATIONS
ARTICLE I - ORGANIZATION

SECTION 1. – OFFICERS

At the first regular meeting following the confirmation of the annual appointees (other than an Alternate Member), the Board shall elect officers, including a Chairman, a Vice-Chairman, and a Clerk. Alternate members shall have no vote respecting officers of the Board. All officers shall remain in office until their successors are elected

SECTION 2. – CHAIRMAN – POWERS and DUTIES

The Chairman shall preside at all meetings of the Board and shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall vote and be recorded on all matters coming before the Board.

The Chairman shall also supervise the work of the Clerk and the Administrative Assistant to the Board, and shall generally transact the official business of the Board.

SECTION 3. – VICE-CHAIRMAN

If the Chairman is absent from any meeting of the Board, the Vice-Chairman shall preside.

SECTION 4. – CLERK

The Clerk shall, subject to the direction of the Board and the Chairman, review the publication of all required notices.

The Clerk shall, subject to the direction of the Board and the Chairman, read into the record at each hearing the published notice, the reports of all Town Boards, and all correspondence received by the Board relative to such hearing.

SECTION 5. – ALTERNATE MEMBERS

The Chairman shall designate an Alternate Member to sit on the Board in the event of the absence, inability to act or conflict of interest of any Board member, or in the event of any vacancy. Alternate members present at any hearing may participate in the hearing, whether designated to sit or not; however, when the hearing is closed only the members deciding the case can comment.

SECTION 6. – ADMINISTRATIVE ASSISTANT TO THE BOARD

The Town shall employ an Administrative Assistant to the Board of Appeals to carry out the day to day operations of the office.

SECTION 7. – QUORUM

Four members sitting on any hearing shall constitute a quorum provided however, that if only four members are present at any hearing, the petitioner shall have the right to a continuance.

SECTION 8. – REGULAR MEETINGS

Regular meetings shall be held at 7:00 p.m. on the first and third Wednesday of each month in the Town Office Building, 26 Court Street, or any other posted location. The Chairman may cancel any regular meeting if there are no hearings scheduled. The Chairman may also authorize the Administrative Assistant to schedule additional meetings as deemed necessary.

SECTION 9. – SPECIAL MEETINGS

Special meetings may be held at the order of the Chairman or at the request of three members of the Board. Written notice thereof shall be given to each member at least 48 hours prior to the time set, except that announcement of a special meeting at any meeting attended by all members shall be sufficient notice. No member who attends any special meeting may protest lack of notice.

ARTICLE II – APPLICATION

SECTION 1. – APPLICATION FORM

All applications for Variances or Special Permits shall be filed with the Board of Appeals Administrative Assistant along with the required information as stated in the application packet. The Administrative Assistant will record the filing with the Town Clerk.

SECTION 2. – PLANS

An application for a Special Permit or Variance shall be accompanied by a site plan done by a Registered Land Surveyor showing all pertinent details including (if relevant) building footprint and dimensions, setbacks, contours, parking layout, drainage, landscaping, traffic flow, and all structures - both existing and proposed. In the case of proposed structures, elevations shall also be required.

SECTION 3. – FEES

Each appeal application shall be accompanied by a check made payable to the Town of Plymouth for the filing fee, review fee, if applicable, and a check in the required amount made payable to the newspaper in which the hearing will be advertised.

Additionally, a fee of \$2.00 per abutter shall be submitted with the labels and/or envelopes to cover the postage for the mailing associated with the filing.

SECTION 4. – ADVERTISING

The Administrative Assistant to the Board, shall after ascertaining that the application or notice of appeal is in proper form, advertise the hearing on each petitioner in a newspaper of general circulation in the Town of Plymouth, for two (2) consecutive weeks, the first publishing to appear at least fourteen (14) days prior to the hearing date.

SECTION 5. – NOTIFICATION

The Administrative Assistant to the Board shall notify the petitioner, owners of land within three hundred (300) feet of the petitioner's property line, the Planning Board, and the Planning Board of the five (5) abutting Towns of each hearing. In the case of applications for Special Permits subject to Environmental Design Conditions, the Board shall also notify (by forwarding copies of plans as required by Section 205-9. A.3 of the Zoning By-law) the Board of Health, Board of Selectmen, Conservation Commission, Department of Public Works, Police Department, Fire Department, Sewer Department, School Administration, Town Engineer, the Water Department and the appropriate Village Steering Committee if necessary. The list of abutters, certified by the Town Assessor is the responsibility of the petitioner when filing an application. (M.G.L. Chapter 40A, Section 11).

For all Special Permit, Comprehensive Permit, and Variance applications for all commercial projects and for all residential projects over two-family, the Applicant shall install signage notifying the public of the request for zoning approval. The sign shall be located in a place visible to the public, and approved by the Department of Planning and Development. The sign shall be installed one week prior to the first public notice in the local newspaper. The Applicant shall provide proof of sign installation (affidavit and/or photograph) to the Administrative Assistant at the same time as sign installation. Failure to document installation may result in a hearing continuance, at the discretion of the Board of Appeals.

The sign shall be of weatherproof material, 24 inches wide, 18 inches high, consist of black letters on a yellow background, and be mounted with a centerline 30 inches about the ground.

The text shall include the following information:

Request for Zoning Approval

Zoning Case No: 39xx

Hearing Date and Time: Month DD, Year at {Time} p.m.

Location: Town Hall, 26 Court Street, Plymouth, Massachusetts 02360

Property Address: # Street Name, Plymouth, MA

Proposal: ?????? – State whatever the proposal is for

Zoning Required: Special Permit or Variance per Bylaw Section xxx

Contact Town Hall for further information on related Public Meetings

Town of Plymouth, 11 Lincoln Street, Plymouth Massachusetts 02360

Zoning Board of Appeals 508-747-1620 x10138

Planning Department 508-747-1620 x10141

Website: www.plymouth-ma.gov

The sign shall be removed within 7 days after the public hearing.

SECTION 6. – ADVISORY REPORTS

Reports and/or recommendations from the Planning Board shall be submitted to the Board of Appeals within thirty-five days after receipt of copies of the application and plans by the Planning Board. Reports and/or recommendations of any other Town Department or agency shall be submitted to the Board of Appeals within twenty days and shall be included with agenda information for review by the Board of Appeals.

All advisory board reports and/or recommendations shall indicate the vote by which such report or recommendation was adopted. Failure of any advisory board or agency to make recommendations with respect to any application shall be deemed lack of opposition thereto.

ARTICLE III

SECTION 1. – DATE OF HEARING

The hearing shall be held within sixty-five (65) days of the date the application is received at the Board of Appeals office.

SECTION 2. – HEARING TO BE PUBLIC

All hearings shall be open to the public, and all interested parties shall be heard. The Chairman may exclude any person whom he/she deems to be a serious hindrance to the workings of the Board. The Building Inspector and the Zoning Agent shall be parties to appeals from their respective decisions.

SECTION 3. - ORDER OF BUSINESS

- a. The Chairman calls the meeting to order.
- b. The Clerk reads the legal advertisement and other relevant documents into the record.
- c. The Chairman announces the Board members who will be seated on the case.
- d. The petitioner, his attorney, or other representative explains the petition and presents reasons why it should be granted.
- e. Members of the Board may ask questions of the petitioner, his attorney, or other representatives at this time.
- f. Persons present who favor the granting of the petition are heard.
- g. The Clerk reads all communications received by the Board in favor of granting the petition into the record.
- h. Persons present who object to the granting of the petition are heard.
- i. The Clerk reads all communications received by the Board in opposition to the granting of the petitioner into the record.
- j. The petitioner, his attorney or other representative is heard in rebuttal.

- k. When all have appeared who desire to be heard and all relevant communications have been read, the Chairman declares the hearing closed.
- l. Decisions on the case will be made later in the same evening, unless the case has been continued to a future date

SECTION 4. – BRIEF TO THE BOARD

Any interested party may submit to the Board at or prior to the close of the hearing, a written memorandum or brief setting forth facts and points of law which support such party's position. After the close of a public hearing, no petitioner/applicant, or attorney/representative shall interrupt or offer further information while the Board is deliberating or discussing a case, unless asked by the Board for clarification purposes. Only the Board members seated on the case shall be allowed to deliberate. The Building Commissioner or his representative may offer clarification and/or contribute information upon request of Board members during deliberations.

SECTION 5. – WITHDRAWALS and CONTINUANCES

A petition may be withdrawn by the petitioner without prejudice at any time prior to publication of the notice of hearing.

A petition may be withdrawn without prejudice prior to the start of the hearing only with the consent of four sitting members of the Board. A hearing, once opened, may be continued at the discretion of the Board and another date is confirmed with oral notice to those present.

SECTION 6. – FILING OF MINUTES

The Administrative Assistant shall file the minutes of each meeting with the Town Clerk within fourteen (14) days of the review and approval of minutes.

ARTICLE IV - DISPOSITIONS

SECTION 1. – VOTING REQUIREMENTS

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, shall show such fact.

SECTION 2. – RECONSIDERATION

Reconsideration of a petition may not be moved after the meeting at which the vote is taken has been adjourned.

SECTION 3. – DECISIONS

A draft Decision, if submitted, may be used as an instrument for the drafting of the Decision and the Administrative Assistant may use it as a guideline in preparing the final decision. At no time shall any petitioner or attorney be allowed to review a decision before it is filed with the Town Clerk. This applies to all interested parties as well. The Administrative Assistant may consult Board members in preparing the draft decision before it is signed and filed. A copy of the final decision shall be mailed to the petitioner, applicant or appellant.

SECTION 4. – NOTIFICATION OF DECISIONS

A decision shall be filed within fourteen (14) days in the office of the Town Clerk and shall be a public record. A Notice of the Decision shall be mailed forthwith to all abutters and parties of interest.

SECTION 5. – EFFECTIVE DATE OF DECISION

No affirmative decision shall take effect until (a) a copy of the decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since the decision was filed in the office of the Town Clerk without any appeal having been filed or that any appeal filed has been dismissed or denied and has also been recorded at the expense of the owner or applicant in the Plymouth County Registry of Deeds or with the Assistant Register of the Land Court for Plymouth County, and (b) a certified copy indicating such Registry recording has been filed with the Board of Appeals.

SECTION 6. – RE-PETITION

No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals shall be acted favorably upon within two (2) years after the date of final unfavorable action unless (a) the Board of Appeals, by a vote of all but one of its members at a public hearing votes after making findings of specific and material changes in the conditions upon which the unfavorable action was based, and (b) unless all but one of the members of the Planning Board consents thereto and after notice is given to parties in interest of the time and place of the proceeding when the question of such consent will be considered.

Certified to be a true copy of the PROCEDURAL RULES and REGULATIONS of the

PLYMOUTH ZONING BOARD OF APPEALS, as adopted by the Board on January 23, 2019 and effective February 13, 2019

Filed with the TOWN CLERK of PLYMOUTH on February 13, 2019

Amended from November 16, 2006 recorded Procedural Rules and Regulations