



## TOWN OF TOWNSEND ZONING BOARD OF APPEALS RULES AND REGULATIONS

**ADOPTED: April 28, 2004, Revised December 16, 2005, June 13, 2007 and September 1, 2010**

### **ARTICLE I OVERVIEW**

#### **SECTION 1. STATEMENT OF PURPOSE**

These rules establish procedures for the operation of the Townsend Zoning Board of Appeals (“ZBA” and/or “Board”), and cover the activities that the ZBA may take under Massachusetts General Laws Chapters 40A, 40B and the Zoning Bylaws, Code of the Town of Townsend.

All application forms approved by the ZBA shall be considered part of the Rules and Regulations.

These rules are not a complete statement of all rules and procedures applicable to the ZBA. Additional requirements are specified in the Zoning Bylaws, Code of the Town of Townsend, in state law, and in state regulations issued under state law. In cases of inconsistency between these rules and the Zoning Bylaws, Code of the Town of Townsend, the Bylaws shall govern. In cases of inconsistency between these rules or the Zoning Bylaws, Code of the Town of Townsend and state law, the state law shall govern.

### **ARTICLE II ORGANIZATION**

#### **SECTION 1. OFFICERS**

At the first regular meeting following the confirmation of the annual appointee, the Board shall elect all officers of the Board, to include a Chairperson (“Chair ”), Vice-Chair person (“Vice-Chair ”), and Clerk. Both regular and associate members participate in this act.

#### **SECTION 2. CHAIRPERSON: POWERS AND DUTIES**

The Chair shall be entitled to vote and be recorded on all matters coming before the Board. Subject to the rules, the Chair shall decide all points of order, unless overruled by a majority of the Board in session at the time. The Chair shall appoint such subcommittees of the Board as may be found necessary or desirable.

In addition to powers granted by state laws and local ordinances, and subject to a vote of the Board, the Chair shall transact the official business of the Board, supervise the work of the clerk, and request necessary help. The Chair may delegate such responsibilities as may be reasonable to other members of the Board, or to any assistants employed by the Board.

The Chair may appoint an acting Chair in situations where both the Chair and Vice-Chair are unable

Revised September 1, 2010

to perform duties. If neither the Chair nor the Vice-Chair is present at a meeting of the Board, the members present shall elect an acting Chair for the duration of the meeting.

### **SECTION 3. VICE-CHAIR PERSON**

The Vice-Chair shall act as Chairperson in case the Chair is absent, disabled or otherwise unable to perform his or her duties.

### **SECTION 4. CLERK**

The Clerk shall be a member of the Board, elected by the Board. Subject to the direction of the Board, the Clerk shall supervise all of the clerical work of the Board including, but not limited to:

- Calling the roll at all meetings of the Board;
- Reading of all applicable petitions and legal notices into the record; and
- Assist the Zoning Administrator with his/her Board responsibilities.

Zoning Board Administrator's responsibilities to the Board shall include, but are not limited to:

- Writing all correspondence of the Board;
- Sending all notices as required by law;
- Keeping dockets and minutes of the Board's public hearings and proceedings; and
- Compiling all required records, maintaining necessary files and indices.

### **SECTION 5. MEMBERS**

The Zoning Board of Appeals shall consist of five (5) full-time members and three (3) associate members appointed by the Board of Selectmen as provided in Massachusetts General Laws, Chapter 40A, §12. Vacancies shall be filled for unexpired terms in the same manner as the original appointments.

### **SECTION 6. QUORUM**

For public hearings on appeals, special permits, variances and comprehensive permits or multi-family applications, a quorum for the Board shall be four members. For business meetings, a quorum shall be three members.

### **SECTION 7. MEETINGS**

Regular meetings may be held subject to the business before the Board, and will be posted as required by the Open Meeting Law (M.G.L. ch. 39, §23a.)

Any member of the Board or the Zoning Board Administrator may sign meeting notices. Meetings may be called by the Chairperson, or at the request of two members. Notice thereof shall be given to each member at least 48 hours before the time of a meeting and posted as required by law.

### **SECTION 8. EMERGENCY MEETINGS**

Emergency meetings may be called by the Chairperson, or at the request of two members, but only for such purposes as allowed, for emergency meetings, under the Massachusetts Open Meeting Law. (M.G.L. ch. 39, §23a)

**ARTICLE III  
APPLICATIONS TO THE BOARD**

**SECTION 1. APPLICATION FORM**

Every application for action by the Board shall be made on forms provided in these rules and regulations. Additional forms are available in the Office of the Town Clerk and from the Zoning Board Administrator upon request. An application shall be considered filed when stamped by the Town Clerk.

**SECTION 2. FILING PROCEDURES**

Each application to the Board shall be filed with the Town Clerk, with the associated fee and required copies of attachments. The Town Clerk shall forward the stamped application to the Board.

**SECTION 3. ADDITIONAL DOCUMENTATION**

The Board may, at a public hearing, require additional information to reach a determination. Pursuant to the Zoning Bylaws, Code of the Town of Townsend Chapter 145 §145-65(F), the Board may require the applicant to pay for any objective, independent expert consultant(s) deemed necessary by the Board to properly confirm and/or evaluate the data presented to the Board. The Board may, at its discretion, require that the applicant pay the expense for said consultants directly to the consultant.

**SECTION 4. FEES**

Fees are listed on the attached application form. For more than one request checked on an application, the applicant shall pay the highest applicable fee.

The Board may waive or reduce filing fees for just cause per M.G.L. ch. 40A. Requests for a waiver or reduction of fees shall be directed to the Zoning Board Administrator for inclusion on the Board's agenda and must be approved by the Board prior to filing of the application. Upon the granting of a waiver or reduction of fees, the applicant shall have 30 days in which to file his/her application.

Fees are payable to the Town of Townsend and are deposited into the General Fund.

**ARTICLE IV  
HEARINGS**

**SECTION 1. NOTICE**

Notice of hearings shall be advertised as required by the provisions of M.G.L. ch. 40A and the Open Meeting Laws of the Commonwealth.

**SECTION 2. ORDER OF BUSINESS AT HEARINGS**

A. The petition, legal notices, mandatory referrals, and other documentation from the file shall be read into the record by the clerk.

B. Presentation of the petition shall be made by the applicant or by his/her agent or attorney, demonstrating how the petition satisfies the requirements of the appropriate bylaw. The applicant

may also submit written documentation to the Board, prior to or during the course of the hearing.

C. All members and associate members of the Board may direct questions during the hearing.

D. There will be opportunity for parties in interest, and the public at large, to address the Board and express their support or opposition to the petition. Comments shall be directed to the Chairman. All speakers must be recognized by the Chairman, and identify themselves by name and address.

E. The Board may, during the hearing, request additional information from the petitioner, parties in interest, or other town boards or officials, and may continue the hearing as reasonably necessary and allowed by law for the purpose of obtaining such additional information. In the event the Board determines that it has insufficient information to reach a decision, the application shall be denied.

F. Decisions of the Board shall be based on findings of facts and testimony presented during the public hearing.

## **ARTICLE V DECISIONS**

### **SECTION 1. VOTING REQUIREMENT**

All full-time members, and any associate members designated by the Chairman, who participated in all sessions of the public hearing are eligible to vote on an application.

The granting of a variance or special permit, or a decision to overturn a ruling of the Building Inspector, shall require the concurring vote of at least four members. All motions other than decisions shall require a simple majority.

### **SECTION 2. WITHDRAWAL**

Any application may be withdrawn, in writing, by the applicant without prejudice prior to the publication of the public hearing notice. After publication, the application can be withdrawn, without prejudice, only with the approval of the Board.

#### **HEARING SCHEDULE:**

The Zoning Board of Appeals must conduct a hearing for a Variance, or an appeal to overturn a ruling of the Building Inspector, within 65 days, and render its decision within 100 days of the application's filing with the Town Clerk. The Board must conduct a hearing for a Special Permit within 65 days of its filing, and render a decision within 90 days of the close of the public hearing. Once a public hearing is opened, it may be continued from time to time. The Zoning Board of Appeals will mail notice of a Hearing to parties in interest and to the petitioner(s) approximately one week prior to the scheduled hearing.

#### **AFTER THE HEARING:**

The Zoning Board of Appeals' shall render a written Decision, which shall be filed with the Town Clerk within 14 days of the date of the Decision. When it is filed, the Decision will become a public record. After that time, any person aggrieved by the Decision must file a Notice of Appeal

with the Town Clerk's office within twenty (20) days.

When the appeal period has expired, the applicant should request the Town Clerk to issue a certification that no appeals have been filed. That certification must be presented to the Building Inspector.

The decision or notice thereof must be filed at the South Middlesex County Registry of Deeds in Cambridge. Prior to obtaining a building permit, the applicant must present evidence of Registry filing to the Building Inspector. This evidence may be a receipt from the Registry with an Instrument number or proof of the Book and Page assigned.

The Registry information also should be delivered to the Zoning Board of Appeals.