

TOWN OF SWAMPSCOTT
ZONING BOARD OF APPEALS
RULES AND REGULATIONS

ARTICLE 1 - ORGANIZATION

Section 1 - OFFICERS

At the first regular meeting following the confirmation of the annual appointee(s), the Board shall elect all officers of the Board: a Chairman, Vice-Chairman and Clerk. Alternates do not participate in this act.

Section 2 - CHAIRMAN: POWERS AND DUTIES

The Chairman shall vote and be recorded on all matters coming before the Board. Subject to these rules, he/she shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall appoint such committees as may be found necessary or desirable.

In addition to powers granted by general laws and local ordinances, and subject to these rules and further instructions of the Board, the Chairman shall transact the official business of the Board, supervise the work of the Clerk, request necessary help, direct the work of all subordinates, and exercise general supervisory power. He/she shall at each meeting report on all official transactions that have not otherwise come to the attention of the Board.

Section 3 - VICE-CHAIRMAN

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

Section 4 - CLERK

Subject to the direction of the Board and its Chairman, the Clerk shall supervise all of the clerical work of the Board including: all correspondence of the Board, sending of all notices required by law and the rules and orders of the Board, receive and scrutinize all applications for compliance with the rules of the Board, keep dockets and minutes of the Board's proceedings, compile all required records, maintain necessary files and indexes, and call the roll at all Board meetings.

Section 5 - ALTERNATE MEMBERS

The Chairman of the Board shall designate an alternate member to sit on the Board in case of the absence, inability to act or conflict of interest on the part of any Board member. In the event of a vacancy on the Board, the Chairman may designate an alternate member to act as a member of the Board until someone is appointed to fill the unexpired portion of the vacated term.

Section 6 - QUORUM

Four members must be present for a quorum.

Section 7 - REGULAR MEETINGS

The regular meeting of the Board of Appeals shall be held at 7:30 P.M. on the fourth Tuesday of each month at a place designated by publication or unless otherwise designated by notice as required. If the regular meeting date falls on a holiday, the meeting shall be held on a date to be designated.

Section 8 - SPECIAL MEETINGS

Special meetings may be called by the Chairman, or at the request of two members. Written notice thereof stating the business to be transacted shall be given to each member at least 48 hours before the time set. Notices shall be posted publicly as required by law.

ARTICLE II

APPLICATION TO THE BOARD

Section 1 - APPLICATION FORM

Every application for action by the Board of Appeals shall be made on an official form, and eight copies of said form shall be filed with the Town Clerk. This form shall be furnished by the Town Clerk upon request. Any communication, purporting to be an application, shall be treated as mere notice of intention to seek relief, 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. NOTE: Please attach copies of ALL prior decisions affecting the property. INCOMPLETE APPLICATIONS WILL NOT BE SCHEDULED FOR A HEARING.

Section 2 - FILING PERIOD - APPEALS FROM ADMINISTRATIVE DECISION

Every application shall be filed and every appeal taken within thirty days from the date of refusal of a permit by, or the date of the order, ruling, decision or determination of, the Building Inspector or other administrative official.

Section 3 - REQUIRED PLANS AND/OR DRAWINGS TO BE FILED

A. All applications shall be accompanied by six copies of a plot plan signed by a registered land surveyor within 90 days of the date of filing the application. Such plan shall show existing and proposed structures and shall also show exact dimensions for area, frontage, setback, side line, and rear line. Such plan shall also indicate provisions for off-street parking, street number of subject property and adjacent properties and the Assessors lot number as given on the Assessors map, and, in those districts where applicable, the computations for minimum open area. EXCEPTION: If said application is a request for a special permit for permission to use an existing structure involving no structural change to the existing structure, no plot plan will be required to be filed with said application.

Eight copies of the application and required plans and/or drawings shall be filed with the Town Clerk. In addition, the applicant shall file one copy of the application and the required plans and/or drawings with each of the following:

Planning Board
Board of Public Works
Town Engineer
Conservation Commission
Board of Selectmen
Building Inspector
Board of Health

B. All applications shall also be accompanied by six copies of plans or drawings of proposed structures or modifications of existing structures. In cases where the applicant is seeking a special permit for use, these plans shall also show floor plans.

C. Where a special permit is sought for conversion of a single-family dwelling to a two-family dwelling under Article VI, Section 5.A.(4), of the Zoning By-law, plans shall be submitted showing compliance with the requirements of said section.

Section 4 - APPLICATION FEE

All applications shall be accompanied by a check, payable to the Town of Swampscott in the amount of \$ 150.00 (base fee); for additional units over 3 in number, \$50.00 per unit; commercial property: from 1-1000 sq.ft. \$100 base fee; over 1000 sq.ft. \$100 base fee plus \$50 for each additional 1,000 sq.ft. or any portion thereof.

Section 5 - ABUTTER REQUIREMENTS

A list of abutters containing the names and addresses of owners of land directly opposite on any public or private street or way, abutters and abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recently applicable tax list of the Town of Swampscott must be obtained from and certified by the Assessors office of the Town and must accompany the application form filed with the Town Clerk. If the land of any such abutter is located in another city or town, then a list of such abutters must be obtained and certified by the Assessors office of that city or town together with a list of the names and addresses of the members of the Planning Board of any such city or town and such list must accompany the application form filed with the Town Clerk.

ARTICLE III

HEARINGS

Section 1 - NOTICE

Notice of hearings shall be advertised in accordance with the provisions of Massachusetts General Laws, Chapter 40 A, Section 11, as most recently amended.

In addition, a copy of the advertised notice shall be sent by mail, postage prepaid, to the petitioner or applicant, property owner (if not the applicant), abutters and abutters to abutters as described in Article II, Section 5 of these Rules and Regulations and which appear on the list of abutters filed with the application, the Planning Board and Inspector of Buildings of the Town of Swampscott and the Planning Board of every abutting city or town.

Section 2 - HEARINGS TO BE PUBLIC

All hearings shall be open to the public. No person shall be excluded unless he or she is considered by the Chairman to be a "serious hindrance" to the workings of the Board.

Section 3 - REPRESENTATION AND ABSENCE

An applicant may appear in his own behalf, or be represented by an agent or attorney. An agent or attorney for the applicant MUST submit his/her authority to so represent the applicant to the Board in writing. If the applicant, his agent or attorney shall fail to appear at the scheduled hearing without due cause and without prior notice to the Board, the Board may decide on the matter using the information it has before it, and proceed accordingly if applicant is not present.

Section 4 - ORDER OF BUSINESS

- A. Reading of petition and legal notices by the Clerk, together with presentation of exhibits, if any.
- B. Applicant's presentation.
- C. Opponent's presentation, if any, and questions by those seeking information.
- D. Applicant's rebuttal, restricted to matters raised by opponent's presentation. Members of the Board who are hearing the case may direct appropriate questions during the hearing.

Section 5 - BRIEF TO THE BOARD

It is recommended, (but not required), that every appeal and application for a variance or special permit be supported by a brief setting forth in detail all facts relied upon by the parties. This is particularly desirable in the case of a variance when the following points, based on General Laws, Chapter 40A, Section 10 should be clearly identified and factually supported: (old Section 15)

- A. The particular use proposed for the land or building.
- B. The conditions especially affecting the property for which a variance is sought.
- C. Facts which make up the hardship.
- D. Facts relied upon to support a finding that the relief sought will be desirable and without substantial detriment to the public good.
- E. Facts relied upon to support a finding that the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law.

Briefs should be timely filed with the Board and on record with the Town Clerk, and copies received by each Board member at his/her residence not later than seventy-two (72) hours prior to the public hearing. The Board shall have no obligation to consider briefs filed or delivered after that time unless additional briefs are requested at the hearing.

ARTICLE IV

DISPOSITION BY THE BOARD

Section 1 - VOTING REQUIREMENTS

The concurring vote of four members of the Board shall be necessary in any action taken by the Board to approve any petition before the Board (Article VI, Section C.3. of the Zoning By-Law).

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.

A detailed record of proceedings, including the vote on each question, must be filed with the Town Clerk within fourteen (14) days of the decision.

Section 2 - WITHDRAWAL

An application may be withdrawn by notice in writing to the Clerk at any time prior to notice of the hearing being published in the newspaper. After advertisement, withdrawal only by Board approval.

Section 3 - RECONSIDERATION

Once a petition has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision by the Board.

Section 4 - REAPPLICATION AFTER UNFAVORABLE ACTION

In order to have a petition reheard within two years of its denial, the petitioner must request permission from the Planning Board and the Board of Appeals, showing new evidence that substantially alters the conditions of the petition. At least four members of the Planning Board must agree that this condition has been met. Once the Boards agree, the petitioner must reapply to the Board of Appeals in the normal manner.

Section 5 - LIMITATION ON GRANTS - EXTENSIONS

If a VARIANCE is granted by the Board, all permits necessary for the prosecution of the work shall be obtained and construction shall be commenced within one year from the date of filing of the Board's decision in the office of the Town Clerk.

Reasonable extension of said time may be granted by the Board in the case of an appeal to the Superior Court under General Laws.

Chapter 40A, Section 17, or for any good cause shown.

A SPECIAL PERMIT, if not exercised, shall expire after two years.

Section 6 - WAIVER

The Board may, by majority vote, waive any provision of these Rules for good cause shown, provided that such waiver shall not be inconsistent with any provision of the Zoning By-Law or the General Laws.

Section 7 - AMENDMENTS

The Board may, by majority vote, alter or amend any provision of these rules and regulations provided that notice of the intent to do so, together with a copy of the proposed change(s), be given by the Chairman to all members of the Board at the meeting preceding the one at which the vote is to be taken. Any member of the Board may submit a proposed change to the Chairman at any time and the Chairman shall schedule a hearing on the proposed change within ninety (90) days from the receipt thereof.

BOARD OF APPEALS

Ann M. Whittemore, Chairman
[Signature]
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[Signature]
Mark H. Haas

DATED: September 27, 1990