

# Commonwealth of Massachusetts

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**TOWN OF WILLIAMSBURG**

**RULES AND REGULATIONS  
of the  
BOARD OF APPEALS**

**AS PROVIDED FOR BY  
SECTION 12 OF CHAPTER 40A  
of the  
MASSACHUSETTS GENERAL LAWS**

Adopted on the Twenty-ninth Day of December, 2008

# Commonwealth of Massachusetts

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## **TOWN OF WILLIAMSBURG BOARD OF APPEALS**

### **RULES AND REGULATIONS**

#### **AS PROVIDED FOR BY SECTION 12 OF CHAPTER 40A OF THE MASSACHUSETTS GENERAL LAWS**

### **ARTICLE I - ORGANIZATION**

#### **Section 1 - Members And Officers**

The Board of Appeals shall consist of three regular and two alternate members appointed by the Board of Selectmen. The regular members of this Board shall elect all officers of this Board to include a Chairperson and Clerk.

#### **Section 2 - The Chairperson: Powers And Duties**

The Chairperson shall vote and be recorded on all matters coming before this Board. Subject to these rules, the Chairperson shall decide all points of order, unless overruled by the other two members seated at the time. The Chairperson shall appoint such committees as may be found necessary or desirable.

In addition to the powers granted by the General Laws of the Commonwealth of Massachusetts and the By-Law of the Town of Williamsburg and subject to the rules and further instructions of this Board, the Chairperson shall transact the official business of this Board, supervise the work of the Clerk, request necessary help, direct the work of all subordinates and exercise general supervisory power. The Chairperson shall, at each meeting, report the official transactions that have not otherwise come to the attention of this Board.

### **Section 3 - The Clerk: Powers And Duties**

The Clerk shall be a member of this Board, and shall, subject to review by this Board and its Chairperson, supervise all of the clerical work of this Board: including all correspondence of this Board, send all notices required by law, prepare rules and orders of this Board, receive and scrutinize all applications for compliance with the rules of this Board, keep dockets and minutes of this Board's proceedings, compile all required records, maintain necessary files and indexes and call the roll at all meetings. If the Clerk is absent, the Chairperson shall appoint an Acting Clerk. If the Chairperson is absent the Clerk shall chair or appoint a chair.

### **Section 4 - Quorum**

Three members shall constitute a quorum of this Board.

### **Section 5 - Alternate Members**

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

### **Section 6 - Special Meetings**

Special Meetings may be called by the Chairperson, or at the request of two Members of this Board. All meetings shall be open to the public in accordance with Chapter 39, Section 23, a., b., and c. of the General Laws of the Commonwealth of Massachusetts. Except in an emergency, a notice of each Board meeting shall be filed with the Town Clerk on the official bulletin board and personal notice shall be given to every Board Member at least 48 hours, including Saturdays, but not Sundays or legal holidays, prior to such meetings.

Meetings, while open to the public, are not public hearings. This Board will seek information or testimony as it deems necessary. Unsolicited comments from the public may, at the discretion of the Chairperson, be ruled out-of-order.

## **ARTICLE II - APPLICATIONS TO THE BOARD**

### **Section 1 - Application Form**

Every application for action by this Board shall be made on the official form of the Board of Appeals. These forms shall be furnished by the Town Clerk upon request. Any communication, purported to be an application, shall be treated as mere notice of intention to seek relief, until such time as the official application form is filled out fully and correctly and filed with the Town Clerk. All information called for by the form shall be furnished by the applicant in the manner therein prescribed. A pre-application meeting may be called to review the application and determine which elements must be included to complete the application.

### **Section 2 - Filing**

Every application shall be filed with the Town Clerk. The Town Clerk shall certify every completed application as to date and time of filing. The date as indicated by the Town Clerk shall be considered to be the date on which the completed application has been filed. The applicant shall forthwith transmit a certified copy of the application on file for a Variance or Special Permit to the Clerk of the Board of Appeals. The applicant shall forthwith transmit certified copies of the application on file for an Appeal from a Decision of the Building Inspector, one to the Clerk of the Board of Appeals and one to the Official or Board of the Town whose decision is being appealed. The Clerk of the Board of Appeals shall indicate the date on which each application was received by the Clerk of the Board of Appeals. It shall be the responsibility of the applicant to furnish the supporting documentation as outlined in Section 3, and pay required fees as set forth in Section 5 of these rules to complete the application.

### **Section 3 - Plan Of Land**

All applications shall be accompanied by six copies of the following described plan. Failure to comply with all requirements may result in a dismissal of an application as incomplete.

#### **A. Size of plan:**

- ◆ 8½X11 or 11X17 inches,
- ◆ Drawn to scale: (1" = 40' is preferred),
- ◆ Plans for major projects shall be of a size and scale to be determined in consultation with the Planning Board.

#### **B. Features to be indicated on the plan:**

- ◆ Site orientation with north point
- ◆ Names of streets
- ◆ Names of owners of property within 300 feet as shown on the most recent tax list,
- ◆ Location of buildings on surrounding properties, showing distances from adjacent buildings and property lines.
- ◆ Elevations of structures on the property when there is a proposed extension or alteration.

### C. Legend and graphic aids

- ◆ Existing features shown in black,
- ◆ Proposed features shown in color,
- ◆ Graphic scale,
- ◆ Date of plan,
- ◆ Title of plan,
- ◆ Names of applicant, owner (if different).

D. Site plans need not be approved by this Board until all other appropriate boards have had an opportunity for review and comment. This Board shall have the authority to alter or waive these requirements as it deems necessary or appropriate in particular cases.

E. For those uses which require Site Plan Review by the Planning Board, as listed in Section 3 of the Zoning Bylaws of the Town of Williamsburg, the site plan submittal to the Zoning Board of Appeals shall be the same as that required by the Planning Board in Section 6 of the Zoning Bylaws.

### **Section 4 - Certified List of Abutters and Map**

Applications are not complete until the Board of Assessors has drawn up and certified a list of names and addresses of abutters and abutters to abutters within 300 feet of the property line of the petitioner together with a map traced from the most recent Tax Map, showing the parcel and all parcels within 300.

### **Section 5 - Fees**

All applications shall be accompanied by:

- A. Filing Fee:** A check made out to the Town of Williamsburg;
- B. Mailing Expense:** Cash for a certificate of mailing to all abutters on the Assessor's certified list, the owner and the applicant if the applicant is other than the owner, and other related expenses;

### **Section 6 – Employment of Outside Consultants**

1. When reviewing an application for, or when conducting inspections in relation to, comprehensive permits, the Zoning Board of Appeals may determine that the assistance of outside consultants is warranted due to the size, scale, technical or scientific complexity of a proposed project, because of a project's potential impacts, or because the Town of Williamsburg lacks the necessary expertise to perform the work related to the permit.
2. If the Zoning Board of Appeals determines that such assistance of outside consultant(s) is warranted, it may require applicant(s) to pay a "project 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 a proposed project.
3. In hiring outside consultant(s), the Board may engage engineers, planners, lawyers, urban designers or any other appropriate professional who can assist the Board in analyzing the project and to ensure compliance with all relevant laws, ordinances/bylaws, and regulation. Such assistance may include, but is not limited to, analyzing an application, monitoring or inspecting a project or site for compliance

with Board's regulations or decision, or inspecting a project during construction or implementation.

4. Funds received by the Zoning Board of Appeals pursuant to these rules shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial for the permit.
5. At the completion of the Zoning Board of Appeal's review of a project, any excess amount in the 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 applicant's successor in interest. For the purpose of this rule, 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. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed, by first class mail, or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that the Board of Selectmen makes no decision within one month following the filing of the appeal, the selection made by the Board shall stand.

## **ARTICLE III - HEARINGS**

### **Section 1 - Notice**

Notice of hearings shall be advertised as required by the provision of General Laws, Chapter 40A, Section 11. In addition, a copy of the advertised notice shall be sent by certificate of mailing, postage prepaid, so that the postmark date is at least fourteen (14) days prior to the date of the hearing, to all abutters and abutters to abutters within 300 feet of the property line of the petitioner, including the applicant, and to the owners of all property deemed by this Board to be affected thereby as they appear on the most recent local tax list, and otherwise transmitted to the planning board of every abutting city or town, to the Planning Board, the Conservation Commission, the Board of Health, Town Counsel, and the Building Inspector of the Town of Williamsburg and to all those listed in the law.

### **Section 2 - Extension Of Time**

Times for public hearing and for action may be extended by written agreement between this Board and the applicant, but a copy of the extension must be filed with the Town Clerk to be deemed valid.

### **Section 3 - Hearings To Be Public**

All hearings shall be open to the public. No person shall be excluded unless a person is considered by the Chairperson to be a "serious hindrance" to the workings of this Board.

### **Section 4 - 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, this Board may decide on the matter, using the information it has otherwise received or it may declare the application withdrawn without prejudice.

### **Section 5 - Order Of Business**

- A. Explanation of procedures and appeals process by the Chairperson,
- B. Reading of Legal Notice by the Clerk, together with presentation of exhibits, if any,
- C. Applicant's presentation,
- D. Questions and comments directed to the applicant,
- E. Applicant's rebuttal, and response.

Members of this Board may direct appropriate questions during the hearing at any time.

## **Section 6 - Written Memorandum**

It is recommended that every appeal and every application for a variance or special permit be supported by a written memorandum or narrative, setting forth in detail all facts relied upon. 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:

- A. The particular use 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 By-Law.

Memorandums, requested by this Board, may be filed at the public hearing or within such time thereafter as may be fixed by this Board, but in no case later than five business days after the public hearings.

## **ARTICLE IV - DISPOSITION BY THE BOARD**

### **Section 1 - Decision**

A decision on any hearing shall be filed with the Town Clerk within the time limits established by Chapter 40A of the General Laws of Massachusetts.

### **Section 2 - Voting Requirement**

The concurring vote of all members of this Board shall be necessary in any action taken by this Board.

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

### **Section 3 - Withdrawal**

An application may be withdrawn by notice in writing to the Clerk at any time prior to the publication of the Legal Notice of the public hearing by this Board. Refer to Article III, Section 4. Requests at other times may be granted by a unanimous vote of this Board upon formal, written request.



#### **Section 4 - Limitations On Grants: Extensions**

If a variance is granted by this 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 granting of a variance. In the case of special permits or appeals from an Official or Board of the Town, a two year deadline from the date of granting the permit or appeal shall apply. These deadlines may be altered as a condition of the permit or variance. Reasonable extension of said time may be granted by this Board in the case of an appeal to the Superior Court under General Law, Chapter 40A, Section 17, or for other good cause as may be shown.

#### **Section 5 - Notices**

Notice of the decision must be mailed forthwith to the applicant, parties in interest and to every person at the public hearing that requested a notice, as required by the provision of General Laws, Chapter 40A, Section 15. The notice shall specify that any appeal must be made pursuant to MGL, Chapter 40A, Section 17; and shall specify that no variance or special permit can take effect until a certified copy of the decision is recorded in the registry of deeds by and at the expense of the applicant; and shall specify the time period after which the grant will lapse if the rights are not exercised.

## ARTICLE V - POLICIES AND ADVICE

**Any advice, opinion, or information given by any Board Member,  
or any other Official or Employee of the Town of Williamsburg  
shall not be binding on this Board.**

## ARTICLE VI - ADOPTION

The adoption of the foregoing rules and regulations by the Williamsburg Board of Appeals, repeals all former rules of this Board.

Adopted this Twenty-ninth of December, 2008

s/s \_\_\_\_\_ Lisa Berkman, Chair

s/s \_\_\_\_\_ Martin Mahoney, Clerk

s/s \_\_\_\_\_ Gerald Mann, Member

Filed on this date in the office of the Town Clerk February 2, 2009

Signature of Town Clerk \_\_\_\_\_