

CARVER PLANNING BOARD



OPERATING PROCEDURES

Revision:
June, 1999
July, 2002
June, 2016

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NOTE: The purpose of this booklet is to provide a convenient summary of the procedures that govern Planning Board actions, as they are outlined in MGL 40A, MGL 41, and the Carver Zoning Bylaws. While every effort has been made to represent the statutes accurately, the use of this book should not be a substitute for review of the original statutes, or consultation with Town Counsel.

PLANNING BOARD MEETINGS

A. Posting of meeting

1. Notice of every meeting of the Planning Board shall be filed with the Town Clerk and posted on the Town Hall Bulletin Board at least 48 hours before the time of the meeting is scheduled to start. Notices shall be signed by the Board Chairman.
2. Changes and cancellations to regular meetings shall also be posted.

B. Agendas

1. Except in emergencies, all agenda items must be received by the Friday before each meeting.
2. The agenda will be written up by the Board secretary, and placed in member folders by the day of the meeting.

C. Quorum and voting

1. A quorum of the Board is 3 out of the 5 members.
2. Unless otherwise specified, all votes require a majority, which means a majority of those present. (So with 3 members present, a majority would be 2. See Subdivision and Special Permit sections for exceptions.)

D. Record of meetings

1. The Board secretary shall keep minutes which faithfully reflect everything transacted at the Board's meetings. This record shall include:
 - a. Names of all persons participating
 - b. Subject matter discussed or acted upon
 - c. Votes by each member
 - d. Reasons for actions, including conditions
2. Copies of minutes shall go to all Planning Board members to be approved or amended at the next meeting. Afterwards, corrected minutes shall be filed in the Board's minutes book, and a copy shall be delivered to the Town Clerk for filing. If the Board does not approve the minutes within 10 days of the meeting, a copy of the unapproved minutes shall be delivered to the Town Clerk within that period, with an amended version submitted later.
3. Persons wishing to see the Board's minutes shall make an appointment with the Board's secretary, and a Board member shall be assigned to supervise.

CONDUCT OF A PUBLIC HEARING

A. Opening

1. The Chairman declares the Public Hearing open and introduces members of the Board and other officials present. The Chair gives the audience a brief overview of the format of the hearing.
2. The secretary passes around a paper for all participants to list their names and addresses.
3. The Chairman reads a copy of the Public Hearing Notice
4. The green cards from the notice mailing are verified.

B. Testimony

1. All speakers should identify themselves by name and address and address their comments to the Board.
2. The petitioner or his agent presents the proposal
3. The Board members ask questions
4. The Chairman opens the hearing to the public for:
 - a. Questions
 - b. Comments in favor
 - c. Comments in opposition
 - d. Responses from the petitioner to questions and comments

C. Closing the Public Hearing

1. After all the testimony has been taken, the Chairman asks the Board for a motion and a vote is taken to close the Public Hearing. If this motion passes, the Board may continue to discuss the proposal, but no further public testimony may be taken.
2. After full consideration, the Chairman awaits a motion and second to either approve the petition, approve with conditions, or to disapprove. The Chair may second the motion if necessary, and further discussion may follow. The vote is taken by roll alphabetically, ending with the Chair.
3. The Chair announces the results of the vote to all attending, and explains how to appeal under state law.

D. Continuances

1. If a vote is taken to continue the hearing to a later date, the date and time and the reason for the continuance are announced to those attending.
2. Before agreeing upon a date, the Board should check on statutory deadlines for action and acquire written consent to and extension from the petitioner if necessary.

APPROVAL NOT REQUIRED (ANR) PLANS - FORM "A": (See MGL Ch. 41 Section 81-P and 81-T),

A. Application Process:

1. It is recommended that the petitioner make an appointment at a regular meeting in order to submit an ANR plan.
2. The date of submission is the date of the Planning Board meeting at which the plan is received. If the applicant does not make a submittal at a meeting in person, but instead delivers the plans to Town Hall, the date of submission is the next regularly scheduled meeting after the delivery of plans, or (if delivery is made by registered mail), the date at which the plans are received at Town Hall.
3. Submissions shall include:
 - a. Form A Application Form (8 copies)
 - b. The Plan (8 copies)
 - c. A check in the amount of \$50.00 payable to the Town of Carver. The check is deposited into the general funds.
4. After submission, the Applicant shall give written notice to the Town Clerk by delivery or registered mail that a plan has been submitted.

B. Board Action:

1. This action requires no hearing, no advertisement, and no notification of abutters to the property.
2. The Board has 21 days in which to make its decision to endorse, deny, or allow the petitioner to withdraw. A positive vote is "a vote to endorse because the plan does not require approval under the Subdivision Control Law." Failure to act within 21 days constitutes constructive approval.
3. A majority vote is required for endorsement.
4. If the vote is to endorse, the Board shall sign the mylar and all other copies. Distribution of signed copies is as follows:
 - a. Mylar to applicant
 - b. Planning Board file copy
 - c. Assessors
 - d. Building Inspector
 - e. Board of Health
 - f. Tax Collector/Treasurer
 - g. DPW
 - h. Town Clerk
 - i. Conservation Commission

5. If vote is a denial, the Board shall file written notice with the Town Clerk, signed by a majority of the Board members, stating the reason for its determination. *Such notice shall be filed within the original 21 day period.* Notice shall also be sent to the applicant by registered mail.
6. It is the applicant's responsibility to file the plans at the Registry of Deeds.

PRELIMINARY PLANS UNDER THE SUBDIVISION CONTROL LAW (FORM B) (See M.G.L. Ch. 41 Section 81-S)

A. Application Process:

1. It is recommended that the petitioner make an appointment at a regular meeting in order to submit a Preliminary Plan.
2. The date of submission is the date of the Planning Board meeting at which the plan is received (not the date of filing with the Town Clerk, as is commonly believed.) If the applicant does not make a submittal in person, the date of submission is the next regularly scheduled meeting after the delivery of plans, or (if delivery is made by registered mail), the date at which the plans are received at Town Hall.
3. Submissions shall include:
 - a. Form B Application Form (8 copies)
 - b. The Plan (8 copies)
 - c. Two checks payable to the Town of Carver for the filing fee and for review and inspection. (See Planning Board Rules and Regulations for amount.) The filing fee goes into the general fund, and the R&I check goes into the R&I Account.
4. After submission, the Applicant shall give written notice to the Town Clerk by delivery or registered mail that a plan has been submitted.
5. The Board shall distribute the plans with a note requesting review (see Appendix) to:
 - a. Board of Health
 - b. DPW
 - c. Conservation Commission
 - d. Planning Board Engineer

B. Board Action:

1. This action requires no hearing, no advertisement, and no notification of abutters to the property.
2. The Board has 45 days in which to make its decision to approve, approve with modifications, or disapprove, and to notify the Town Clerk of its decision. The Board of Health also has 45 days to make its own separate determination.
3. A majority vote is required for approval.
4. Notification to the Town Clerk shall be in the form of a letter, signed by a majority of the Board members, and in the case of disapproval, shall state the reason for the decision. A copy of the letter shall be sent to the applicant by registered mail.
5. A Preliminary Plan does not get filed at the Registry.

DEFINITIVE PLANS UNDER SUBDIVISION CONTROL LAW (FORM C) (See M.G.L. Ch. 41 Sections 81T – V)

A. Application Process:

1. It is recommended that the petitioner make an appointment at a regular meeting in order to submit a Definitive Plan.
2. The date of submission is the date of the Planning Board meeting at which the plan is received (not the date of filing with the Town Clerk, as is commonly believed). If the applicant does not make a submittal in person, the date of submission is the next regularly scheduled meeting after the delivery of plans to Town Hall, or (if delivery is made by registered mail), the date at which the plans are received at Town Hall.
3. Submissions shall include:
 - a. Form C Application Form (9 copies)
 - b. The Plan (9 copies)
 - d. Two checks payable to the Town of Carver for the filing fee and for review and inspection. (See Appendix for amount.) The filing fee goes into the general fund, and the R&I check goes into the R&I Account.
 - e. Certified list of abutters
4. After submission, the Applicant shall give written notice to the Town Clerk by delivery or registered mail that a plan has been submitted.
6. The Board shall distribute the plans with a note requesting review (see Appendix) to:
 - a. Board of Health
 - b. DPW
 - c. Conservation Commission
 - d. Planning Board Engineer
 - e. Fire Department
 - f. Building Commissioner
 - g. EMS

B. Public Hearing

1. A public hearing shall be held – usually at least 45 days after the submission of the plans.
2. Notice of the hearing shall be made in accordance with MGL. Ch. 41 (See Appendix for notice requirements for this public hearing.)

3. Final action cannot be taken on the application until BOH comments have been received or 45 days have elapsed. (If BOH fails to submit a report, the Planning Board shall make note of this on the plan.)

C. Board Action

1. In the case of a residential subdivision where a Preliminary Plan on the same property has been submitted (even if it resulted in disapproval or the Board failed to act on the plan), Board action on the Definitive Plan must be taken *and notice of the action filed with the Town Clerk* within 90 days of submission. Where no Preliminary Plan has been submitted, Board action shall be taken *and notice filed* within 135 days. In the case of a non-residential subdivision, Board action shall be within 90 days, whether or not a Preliminary Plan was submitted.
2. Failure to act with those periods constitutes approval, unless a extension has been agreed upon in writing by the applicant. Notice of such an extension agreement shall be filed with the Town Clerk.
3. Approval of a subdivision plan requires a positive vote of a majority of the full membership (i.e. at least 3). The vote should make reference to the name of the plan and final revision date, and the number of pages in the plan.
4. Any requested waivers should get a separate vote, and such waivers should be noted on the plan.
5. The Board may not approve a plan if the Board of Health had disapproved it.
6. Notice to the Town Clerk of the Board's decision should be in the form of a letter (see Appendix for sample), and should include any waivers approved or other conditions included in the vote. This letter shall be signed by a majority of the Board members. Notification of a disapproval should include a detailed description of reasons why the plan does not conform to the Subdivision Rules and Regulations. Notice should be made in the letter that appeals be made pursuant to MGL Chapter 40A Section 17, and shall be filed within 20 days of the filing of the decision with the Town Clerk. (specify date.)
7. A copy of the notice with the Clerk's date stamp shall be sent immediately to the applicant by registered mail.

D. Appeal Period, Surety, and Plan Endorsement

1. The appeal period is 20 days from when notification is filed with the Town Clerk. Once this time has elapsed, the Clerk will issue a certification that no appeal has been filed.

2. Prior to final endorsement, the applicant shall submit to the Board some form of performance guarantee (such as a bond, letter of credit, or covenant), which meets the approval of both Town Counsel and the Board's engineer. *The final plan should contain a note referencing this performance guarantee*

Any covenant should be in triplicate, signed and notarized, and should be accompanied by certification that the signatories are empowered to represent the corporation or trust. (see forms in Appendix). In addition, there should be certification that any mortgagees (such as a bank) have signed off on the covenant, or that there are no mortgagees.

3. Once the covenant has been approved by Town Counsel, it should be signed by the Board (notarization not necessary). Copies of the covenant are distributed as follows:
 - a. original to Registry (by applicant)
 - b. original to applicant
 - c. original to Planning Board files
 - d. copy to Board engineer
4. Copies of bonds and letters of credit are distributed as follows:
 - a. original to Town Treasurer
 - b. original to applicant
 - c. copy to Planning Board files
 - d. copy to Town engineer
5. Once certification of no appeal has been received from the Clerk and evidence has been returned to the Board indicating that any covenant has been filed at the registry (such as certification showing book and page number), the applicant should appear before the Board at a regular meeting for endorsement of the final plan, with all modifications and conditions noted on it, on the mylar and 6 copies provided by the applicant.
6. Copies of the signed plans are distributed as follows:
 - a. Mylar to the applicant (to be filed at Registry)
 - b. applicant file copy
 - c. Planning Board file copy
 - d. Town Clerk
 - e. Assessors
 - f. Building Inspector
 - g. Town Engineer

E. Release of Performance Guarantee

1. From time to time, the developer may come before the Board with a request for reduction of a surety or release of lots under covenant. Such request shall be made on a Form E (see Appendix). The request should be forwarded to the Board's engineer for his review, and no action should be taken until the engineer's written recommendation has been received.

2. Upon recommendation of the engineer, the Board may, upon a majority vote, approve the release. The Board should sign the release document in triplicate, and such signing shall be notarized.
3. Copies shall be distributed as follows: two copies to the applicant (one to keep and one for the Registry), and one to the Planning Board files.
4. At the completion of the project, the developer may request in writing to the Board and the Town Clerk full release of all covenants and other sureties. If the Board (with the recommendation of the engineer), determines that the work is complete, it shall, by a majority vote, release the surety. If the Board determines that the work is not complete, it should send a notice to the applicant and Town Clerk by registered mail within 45 days of the request, detailing why the work fails to comply with the requirements.

F. Amending or Rescinding Definitive Plans Previously Endorsed.

1. This process requires a public hearing and notification of abutters in the same way as the original Definitive Plan.

SPECIAL PERMITS (See MGL Ch. 40A, Section 9, and Carver Zoning Bylaws Section 5300)

A. Application Process

1. It is recommended that the petitioner make an appointment at a regular meeting to determine if a special permit is required, or to submit a special permit application.
2. The applicant shall file the application with the Town Clerk, and afterwards submit a copy of the application, including the time and date certified by the Clerk, to the Planning Board. The date of submission is the date of the filing with the Town Clerk.
3. Submission to the Board shall include:
 - a. Special Permit Application form. (7 copies - 5 for Board, one for Board files, and one for engineer)
 - b. All plan and materials required by the Rules and Regulations or Zoning Bylaws. (7 copies)
 - c. Two checks payable to the Town of Carver for the filing fee and for review and inspection. (See Appendix for amount.) The filing fee goes into the general fund and the R&I check goes into the R&I account.
 - d. Certified list of abutters
 - e. If the submittal is incomplete, the Board shall notify the applicant of the deficiency by registered mail within 14 days of submittal. The applicant shall have 14 days from the mailing to make the submittal complete. Failure to do so shall result in denial.
4. Within 3 days of submittal, the applicant shall distribute the plans with a note requesting comments within 35 days (see Appendix) to:
 - a. Board of Health
 - b. Conservation Commission
 - c. Building Inspector
 - d. D.P.W.
 - e. Police Chief
 - f. Fire Chief

C. Public Hearing

1. A public hearing shall be held within 65 days after the submission of the plans to the Town Clerk.

2. Notice of the hearing shall be made in accordance with MGL. Ch. 40A Section 11. (See Appendix for notice requirements for this public hearing.)

D. Board Action

1. No action shall be taken until comments have been received from other Boards or until 35 days have elapsed from referral.
2. Final action must be taken by the Board within 90 days of the public hearing.
3. Failure to act within that periods constitutes approval, unless a extension has been agreed upon in writing by the applicant. Notice of such an extension agreement shall be filed with the Town Clerk.
4. Approval of a special permit requires division plan requires the vote of four out of five members of the Board.
5. The written decision of the Board shall include a detailed record of the proceedings, including the vote of each member (including mention of members who are absent or fail to vote), and setting forth the reason for the Board's decision, and any conditions included in the vote. Any departures from the recommendations of the other boards shall be explained. The decision shall state that appeals must be filed pursuant to MGL Chapter 40A Section 17, and shall be filed within 20 days of the filing of the decision with the Town Clerk (specify date). This written decision shall be signed by a majority of the Board.
6. This written decision must be filed with the Town Clerk within 14 days of the vote, and copies of the decision must be sent by registered mail to the applicant and by regular mail to all the parties who received the original hearing notice, and anyone present at the hearing who requested that a copy be sent them. The Town engineer shall also receive a copy of the full decision.
7. If the written decision is extremely long, an abbreviated decision notice (which must include the appeal provision) may be sent to the parties in interest, referring them to the full text on file at the Clerk's office.
8. A special permit shall lapse after 24 months if unused.

SITE PLAN REVIEW (See Carver Zoning Bylaws Section 3100)

A. Application Process

1. It is recommended that the petitioner make an appointment at a regular meeting to determine if Site Plan Approval is required, or to review preliminary plans.
2. The applicant shall file the application with the Planning Board at a regularly scheduled meeting. The date of submission is the date of that meeting. At the time of submission, the applicant may request waiver of some or all site plan requirements due to very simple circumstances.
3. Submission to the Board shall include:
 - a. Site Plan Application form. (12 copies – 5 for Board and 7 for distribution)
 - b. All plans and materials required by the Zoning Bylaws (12 copies)
 - c. Two checks payable to the Town of Carver for the filing fee and for review and inspection. (See Appendix for amount.) The filing fee goes into the general fund and the R&I check goes into the R&I account.
 - d. Certified list of abutters
4. Within 3 days of submission to the Board, the applicant shall submit a copy of the application and plan to the Town Clerk.
5. Within 7 days of submission, the Board shall distribute the plans with a note requesting comments within 14 days to:
 - a. Town engineer
 - b. Police Chief
 - c. Fire Chief
 - d. EMS
 - e. Town Treasurer
 - f. Conservation Commission
 - g. Board of Selectmen

B. Public Hearing

1. A public hearing shall be held to consider the application.
2. Notice of the hearing shall be made in accordance with MGL. Ch. 40A Section 11. (See Appendix for notice requirements for this public hearing.)
3. Where a special permit from the Planning Board is required in addition to site plan review, the Board shall coordinate the site plan review with the special permit review, and the timetable for the special permit shall be in effect.

C. Board Action

1. Final action must be taken by the Board within 60 days of submission.
2. Failure to act within that periods constitutes approval, unless a extension has been agreed upon in writing by the applicant. Notice of such an extension agreement shall be filed with the Town Clerk.
3. Approval of a site plan requires the majority of those present.
4. The written decision of the Board shall give detailed record of the proceedings, including the final revised date of the plan, the number of pages, the vote of each member, and setting forth the reason for the Board's decision and any conditions included in the vote. This written decision should be signed by a majority of the Board.
5. This written decision should be filed with the Town Clerk in a timely fashion and a copy the decision must be sent by registered mail to the applicant.
6. 4 copies of the final plan shall be signed by the Board and distributed as follows:
 - a. Planning Board files
 - b. Building Inspector
 - c. Applicant
 - d. Town Engineer
7. No final occupancy permit shall be granted by the Building Inspector until the Planning Board certifies that the project has been completed in accordance with the site plan and its conditions. Where final work such as landscaping cannot be completed because of weather, a temporary permit may be issued, or a surety may be required to guarantee completion.
8. Site plan approval shall lapse after 1 year unless an extension is agreed upon.

ZONING CHANGES (See MGL Chapter 40A Section 5)

A. Submission

1. Zoning amendments may be initiated by the Selectmen, ZBA, Planning Board, SRPEDD, an individual owning land to be affected by the change, or by citizen petition.
2. The submission should be made to the Board of Selectmen, who must submit it to the Planning Board for review within 14 days.

B. Public Hearing

1. The Planning Board shall hold a public hearing within 65 days of referral by the Selectmen. Notice of the hearing shall be made in accordance with MGL 40A Section 11 (see Appendix). *These procedures must be followed precisely, as very minor errors are grounds for disapproval by the Attorney General.* Long articles may be summarized in the advertising and warrant, with the full text available at the Town Clerk's Office.
2. The public hearing may take place no more than 6 months prior to Town Meeting.
3. After hearing testimony, the Board shall vote to recommend the amendment, not recommend it, or propose amendments as long as they are reasonably within the scope of the article as described in the advertising and posting. The Planning Board has 21 days after the hearing to prepare a report, although it may choose to act in less time. (Unless the Board has submitted a report or 21 days have elapsed since the hearing, a Town Meeting vote cannot take place.)

C. Town Meeting

1. The Board shall present its report to Town Meeting orally and/or in writing along with any recommended amendments to the original article.
2. Adoption of a zoning change requires a two-thirds vote. This vote must be counted, or else it must be unanimous.
3. A zoning amendment is effective the date on which it is voted. If the article is subsequently disapproved by the Attorney General, the bylaw (or any disapproved portion) reverts to the old version, retroactive to Town Meeting.
4. The Town Clerk, with the assistance of the Planning Board, shall submit material to the Attorney General relevant to the adoption of the bylaw within 30 days of Town Meeting. The AG must approve or disapprove the bylaw changes within 90 days.

D. Zoning Freeze Protection

1. Residential or non-residential subdivision plans submitted to the Planning Board prior to Town Meeting are entitled to a zoning protection for eight years after the date of endorsement of the plan (See subdivision section for submission requirements.)

2. ANR plans filed with the Planning Board prior to Town Meeting are only entitled to protection against use changes, and this protection lasts for three years from the date of plan endorsement. ANR plans do not receive protection against dimensional or other regulatory changes unless they involve either:
 - a. single residential lots not in common ownership with adjacent lots, or
 - b. three or fewer adjacent residential lots in common ownership at the date of Town Meeting (which get five years protection. See MGL 40A Section 6.)
3. Special Permits and Building Permits are not protected against zoning changes unless the permit has been granted prior to the first publication of the notice for the zoning change, and construction begins not more than six months after issuance of the permit.

STREET ACCEPTANCES (See legal memorandum in Appendix)

A. Layout

1. The process usually begins with a petition by the developer or homeowners to accept the road. This petition must be made to the Selectmen or Road Commissioners. (In Carver it is not clear who the Road Commissioners are)
2. The Selectmen or Road Commissioners then refer the petition to the Planning Board
 - a. The Planning Board has 45 days to make a recommendation
 - b. If no report, proceedings may continue.
3. The developer shall submit an as-built in triplicate which may be referred to as a legal description of the roadway. One copy should go to the Planning Board files, one to DPW, and the third should be available for inspection at the Clerk's office.
4. An article to accept the way and its easements, along with a physical description and/or reference to the as-built plan must be published in the warrant.
5. The Selectmen or Road Commissioners must hold a meeting to vote on "laying out the way." (In Carver this meeting has traditionally been held by the Planning Board, with the Selectmen and DPW invited to attend.) This meeting does not follow the normal procedures for Public Hearings. For example:
 - a. If any land must be taken in order to create the way (for example, if the lot lines extend to the middle of the road) then owners must be notified at least seven days in advance of the hearing by regular mail. There is no statutory requirement to notify other parties.
 - b. If no land is to be taken (because the roadway is shown as a separate parcel on the plan) then no notification is required by statute, although the Board may decide to post a notice in the paper, or notify homeowners in some cases.
 - c. After hearing the recommendations of the Planning Board, the DPW, the Town Engineer, and any testimony by other attendees at the meeting, the Selectmen vote to layout the way. Usually the Planning Board votes to recommend or not recommend street acceptance at the same meeting.
 - d. The vote to approve the layout and the metes and bounds plan of the layout are filed with Town Clerk, who must within 10 days must record the description in a book kept for this purpose. This must be done at least 7 days prior to any Town Meeting action.

B. Acceptance

1. At Town Meeting, the Selectmen, Planning Board, and the DPW make a report recommending or not recommending acceptance of the road. Street acceptance of a road created by subdivision requires a majority vote of Town Meeting. Any other kind of road requires a two-thirds vote.

D. Acquisition

1. After Town Meeting, the Selectmen must vote to accept any deeds for land or easements associated with the street, and file such deeds at the registry. (See legal memo in Appendix for more on this step.)

PROJECT REVIEW FEES (53G Accounts)

Applicability

In addition to an Administrative Fee, the Planning Board shall impose a Project Review Fee on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

Submittal

Project Review Fees and Supplemental Project Review Fees shall be deposited in an account established pursuant to G.L. c. 44, s. 53G (53G Account).

Determination of Project Review Fees

Upon receipt of an application for Planning Board approval, Planning Board staff shall submit plans and/or other pertinent information to the consultant chosen by the Planning Board in order to obtain an estimate of the cost of consulting or review services. On receiving notification of the estimate, the applicant shall submit the amount indicated to the Planning Board. No review work shall commence until the estimated fee has been paid in full. Failure to submit the fee within five business days following notification shall be reason for denial of the plan for failure to comply with these regulations.

Inspection Phase

After the granting of a Special Permit, site plan approval or Definitive Plan approval, the Planning Board may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

Handling of Project Review Fees

The Project Review Fee is to be deposited into a special account as set forth in G.L. c. 44, s. 53G.

- a. Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.
- b. Project Review Fees shall be turned over to the Town Treasurer by the Planning Board for deposit into a 53G Account.
- c. A copy of the latest statement from the banking institution handling the 53G Account shall be forwarded from the office of the Town Treasurer to the Planning Board office as soon as it is received for timely and accurate accounting.
- d. The Town Accountant shall prepare a report on activity in the 53G Account on an annual basis.
 1. This report shall be submitted to the Selectmen for their review.
 2. This report shall be printed in the Annual Report for the Town.
- e. An accounting of an applicant's funds held in the 53G Account may be requested by the applicant at any time.
 1. The Planning Board shall respond to the request in a timely fashion.
 2. This accounting shall include the following information:
 - i. The latest statement from the banking institution handling the account, which should include an accurate accumulated interest portion to the closing date of the statement if such statements are subdivided into individual applicants' accounts. Otherwise, a statement of

- principal and interest, prepared by the Planning Board office, based on the latest statement from the banking institution.
- ii. A report of all checks authorized for issuance since the last banking statement.
- f. An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
 - g. Excess fees in the 53G Account, including accumulated interest, shall be returned to the applicant or other person or agency responsible for making the original deposit at the conclusion of the review process, as defined below.
 - 1. With the approval or disapproval of a Preliminary Subdivision Plan.
 - 2. With the disapproval of a Definitive Subdivision Plan.
 - 3. With the release of the performance bond at the end of construction of an approved Definitive Subdivision Plan.
 - 4. With the final inspection or the approval or disapproval on all other types of applications under the Zoning By-Law, whichever comes later.

Appeal

The Planning Board's selection of a consultant for the review of an application may be appealed in writing to the Board of Selectmen by the applicant, providing such appeal is initiated within two weeks of the initial selection.

- a. The Selectmen shall convene a formal hearing within twenty days of receiving a written appeal by an applicant.
- b. Two circumstances may disqualify the selected consultant. These conditions constitute the only grounds for an appeal.
 - 1. Conflict of interest: A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process. Consultants must be in compliance with the Massachusetts Conflict of Interest Law, G.L. c. 268A.
 - 2. Lack of appropriate qualifications: A consultant shall possess the minimum required qualifications. The minimum qualifications shall consist of either 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.
- c. The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.
- d. If no decision is rendered by the Board of Selectmen within 30 days following the filing of the appeal, the selection made by the Planning Board shall stand.
- e. This appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.

AMENDMENTS TO PLANNING BOARD RULES AND REGULATIONS (See MGL Chapter 41, Section 81-Q)

The Planning Board may occasionally decide to amend existing regulations such as the Subdivision Rules and Regulations, or to adopt new sets of regulations, such as those for townhouse special permits. Placing requirements into the Board's regulations rather than zoning is advisable for detailed technical descriptions, standards that are likely to require frequent updating, or standards requiring flexibility. The Board has the ability to waive or modify its regulations when reviewing projects, but not the zoning bylaws, which require a variance by the ZBA.

A. Public Hearing

1. A Public Hearing must be held before the Board can amend or adopt new rules and regulations. Notice of the hearing shall be made in accordance with MGL 40A Section 11 (see Appendix). If the full text of the changes are not included in the notice, then a copy of the proposed regulations must be on file at the Clerk's office when the notice is published.
2. After receiving comments and recommendations from those present at the hearing, the board can vote to adopt the new regulations by majority vote.

B. After adoption of the regulations, copies which have been certified by the Town Clerk shall be filed with the following:

1. Planning Board
2. Town Clerk
3. Plymouth Registry of Deeds
4. Land Court at:

Mr. Charles Twombly, Recorder of the Land Court
Edward W. Brooke Courthouse
24 New Chardon St.
P.O. Box 9662
Boston, MA 02114-9662

C. The rules are not effective until they have been filed.

APPENDIX A
NOTIFICATION REQUIREMENT FOR PUBLIC HEARINGS

A. These requirements apply to the following procedures:

1. Definitive Subdivisions
2. Special Permits
3. Site Plan Reviews
4. Zoning Changes
5. Changes in Planning Board Rules and Regulations.

B. Notification:

1. Notice of the public hearing shall be advertised in a newspaper of local circulation on two successive weeks. The first date of publication shall be at least 14 days before the date of the public hearing (*the actual date of hearing does not count in the 14 days*). The deadline is noon Monday for Thursday's issue of the Carver Reporter.
2. Long articles and proposals may be summarized in the notice, with the full text filed at the Clerk's Office prior to publication of the notice.
3. At least 14 days prior to the hearing, three copies of the notice shall be delivered to the Town Clerk. (One date-stamped copy for PB files, one to post, and one for Town Clerk files.) Notice of the hearing shall be posted in a conspicuous place on the Town Hall bulletin board at least 14 days prior to the hearing.
4. In the case of Definitive Subdivisions, Special Permits, and Site Plan Review, notices shall be sent in a timely manner by certified mail to everyone on the certified abutters list provided by the applicant. The certified list shall include all abutters within 300 feet of the property line.
5. In all cases, notice of the hearing shall also be sent to:

S.R.P.E.D.D.
88 Broadway
Taunton, MA 02780

Elaine Wijnja (pronounced Vine-ya)
DHCD
100 Cambridge Street
Suite 300
Boston, MA 02114

Planning Board
Town Hall
Plymouth, MA 02360

Planning Board
Town Hall
Plympton, MA 02367

Planning Board
Town Hall
Wareham, MA 02571

Planning Board
Town Hall
Rochester, MA 02770

Planning Board
Town Hall
Middleboro, MA 02346

Planning Board
Kingston Town House
26 Evergreen Street
Kingston, MA 02364

**APPENDIX B
FEE SCHEDULE**

APPENDIX C
FORMS

APPENDIX D
SAMPLE LETTERS

APPENDIX E
LEGAL MEMORANDUMS

**APPENDIX A
NOTIFICATION REQUIREMENTS
FOR PUBLIC HEARINGS**

On Planning Board will be holding a Public Hearing on the application of for the purpose of

Please review attached plan and submit your comments to the Planning Board by

Distribution List:

- Board of Health
- Building Inspections
- DPW
- Conservation Commission