



# **TOWN OF BOURNE**

## ***Planning Board***

Bourne Town Hall  
24 Perry Avenue  
Buzzards Bay, MA 02532  
Phone: (508) 759-0615 Fax: (508) 759-0611



## **PROCEDURAL RULES**

### **BOURNE PLANNING BOARD**

Adopted April 10, 1979

Most recently amended April 14, 2011

<b>1.0</b>	<b>GENERAL PROVISIONS</b>	
1.1	Officers .....	1
1.2	Board Members.....	1
1.3	Meeting Agenda.....	1
1.4	Minutes .....	1
1.5	Requests to Selectmen .....	1
1.6	Quorum .....	1
1.7	Votes .....	2
1.8	Procedural Matters .....	2
1.9	Review Fees .....	2
1.9.1	Reimbursement of Fees .....	4
<b>2.0</b>	<b>ZONING ADMINISTRATION</b>	
2.1	Zoning Amendments.....	4
2.2	Special Permit Rules & Procedures .....	5
2.3	Site Plan Reviews .....	8
<b>3.0</b>	<b>OTHER ISSUES</b>	
3.1	Street Acceptance.....	10
3.2	Mandatory Referrals .....	10
3.3	Performance Guarantee .....	11

## **1.0 GENERAL PROVISIONS**

Reference: Article 1.4, Town Bylaws

## **1.1 OFFICERS**

### **1.1.1 Selection:**

The Planning Board shall elect a Chairman, Vice Chairman, and Clerk annually at the first Board meeting following the Annual Town Meeting. The Board shall at the same organizational meeting select representatives to such committees or organizations as may call for Planning Board representation. The Board may designate a member as Secretary; to be paid only for time spent outside of meetings.

### **1.1.2 Duties:**

The Chairman shall preside at all meetings and hearings, make appointments except as provided above, and supervise the work of the secretary and other staff or consultants. The Vice-Chairman shall serve as Chairman in the absence or disqualification of the Chairman. The Clerk shall serve as Chairman in the absence or disqualification of both the Chairman and the Vice-Chairman.

## **1.2 BOARD MEETINGS**

The Planning Board normally meets on the second and fourth Thursday of the month; however, special meetings may be scheduled by vote of the Board or at the discretion of the Planning Board Chairman.

## **1.3 MEETING AGENDA**

All persons wishing to meet with the Board shall make appointments to do so through the Chairman or Secretary no later than noon of the Monday preceding the meeting, providing information regarding the subject matter to be presented or discussed. An agenda shall be sent to each member in advance of the meeting.

## **1.4 MINUTES**

All votes shall be recorded in the minutes, including the names of the members who make and second motions. If a vote is not unanimous, the minutes will indicate how each member voted, whether yes, no, or abstention.

## **1.5 REQUESTS TO SELECTMEN**

All requests made to the Board of Selectmen shall be in writing.

## **1.6 QUORUM**

Five members shall constitute a quorum, except six members qualified to vote shall constitute a quorum for a hearing on a Special Permit. In the absence of a quorum, a scheduled hearing shall be continued to the next regularly scheduled meeting of the Planning Board or to an earlier date if the Chairman so determines.

## **1.7 VOTES**

**1.7.1** All members, including the Chairman, shall participate in all votes unless being or representing a "party in interest" on a vote pertaining to a subdivision, endorsement that a plan is not a subdivision, a special permit, a site plan review, a recommendation regarding an action before the Board of Appeals, or a zoning map amendment of one parcel or two contiguous parcels.

"Party in interest" shall be as defined in Section 11 of Ch. 40A of the G.L.

**1.7.2** A positive vote by a majority of those voting shall be required for approval for all matters, except when otherwise specified by statute, charter, or bylaw.

## **1.8 PROCEDURAL MATTERS**

In procedural matters not covered by these rules or by Town Bylaw or Statute, the Board shall be guided by Roberts Rules of Order, newly revised, 1970.

## **1.9 REVIEW FEES (As provided by M.G.L. Section 53G, Chapter 44)**

In addition to Filing Fees, which are fees to cover administrative and internal review costs, the Board may also require Review Fees. When reviewing a Development Plan application, or when conducting inspections in relation to, the Board may determine that the assistance of outside consultants is warranted. The Board may require the Applicant to pay a "project review fee" at the time of submission or at any time in the review process. The fee will consist 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.

In hiring outside consultants, the Board may engage engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. At the minimum the consultants qualifications must include: a) educational degree in or related field at issue or b) three or more years of practice in the field at issue or related field. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.

Funds received by the Board pursuant to this section shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this account may be made at the direction of the Board without further appropriation. Expenditure 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. Failure of an Applicant to pay a project review fee shall be grounds for denial or revocation of the permit.

At the completion of the Board's review of a project, any excess amount in the account 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 the Applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be the Applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

Any Applicant may take an administrative appeal from the selection of outside consultants to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Planning Board has verbally, mailed or hand-delivered notified the Applicant of the selection. The grounds for such an appeal shall be limited to the 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 during the administrative appeal. In the event that the Board of Selectmen does not render a decision within 30 days following the filing of an appeal, the Planning Board's selection shall stand.

#### **1.9.1 Reimbursement of Fees**

Upon withdrawal of an application prior to notification of a hearing, only advertising and mailing fees may be reimbursed. No fees shall be reimbursed after a hearing is scheduled.

## **2.0 ZONING ADMINISTRATION**

### **2.1 ZONING AMENDMENTS Reference: Sec. 5, Ch. 40A, G.L.**

#### **2.1.1 Initiation**

Section 5 of Ch. 40A, G.L. provides that zoning amendments may be initiated by submittal of proposals to the Selectmen by any of the following:

- the Selectmen themselves
- the Board of Appeals
- the Planning Board
- Cape Cod Commission
- An owner of land affected by the change
- Registered voters in a number sufficient to place an article on the Warrant, acting under Section 10 of Chapter 39, G.L.

The Planning Board will submit amendment proposals to the Selectmen either on behalf of others or on their own initiation, in either case by vote of a majority of those voting.

### **2.1.2 Hearing**

- A. The Planning Board will hold a public hearing on all proposed Zoning Amendments, as provided in Section 5 of Ch. 40A.
- B. For map amendments, it is requested that the applicant submit the following to the Planning Board at least three weeks prior to the hearing:
  - 1. A drawing based upon the Town Assessor's maps indicating existing and proposed district boundaries, key property lines, and other relevant locational information.
  - 2. A written description of the change suitable for inclusion in a hearing notice, describing as clearly as possible what is proposed (metes and bounds descriptions are unnecessary and seldom readable).
- C. When involving fewer than ten parties, those most directly affected by proposed zoning amendment will be notified of the public hearing by card or letter.

## **2.2 SPECIAL PERMIT RULES AND PROCEDURES**

Reference: Section 9, Ch. 40A, G.L.

### **2.2.1 Adoption**

These rules and procedures have been prepared and adopted by the Bourne Planning Board in compliance with General Laws, Chapter 40A, Section 9, as amended by Chapter 808 of the Acts of 1975. They may be amended or rescinded from time to time by majority vote of the Board. Said rules and procedure to become effective at such times as may be specified therein and upon filing a copy thereof with the Town Clerk.

### **2.2.2 Applications**

- A. All applications for Special Permits authorized by the Zoning Bylaw to be issued by the Planning Board shall be made in writing on such form or forms adopted by the Planning Board and available at the offices of the Town Clerk or Engineering Department.

- B. Eight (8) copies of said form shall be filed with the Planning Board plus one copy shall be filed with the Town Clerk. All of said copies shall bear the signature of the applicant or his duly authorized agent or attorney.
- C. The applicant shall attach to his application two (2) copies of a list of all parties in interest and their addresses as appearing on the most recent tax list. "Parties in interest" as defined in Ch. 40A, G.L., Section 11 as amended, shall mean the petitioner, owner of the land for which the permit is sought (if different than the petitioner), abutters, owners of land directly opposite or any public or private street or way, abutters to the abutters within 300 feet of the property line of the petitioner, even if over a town line, and the Planning Board of each abutting municipality.
- D. Applications shall state the section of the Zoning Bylaw for which the Special Permit is sought.
- E. All applications at the time of filing shall be accompanied by:
  - 1. Nine (9) prints of the latest recorded plan of the land which will be affected; or in cases where no such plan exists, nine (9) prints of a plan of the land endorsed by a registered land surveyor.
  - 2. Nine (9) prints of the plot showing the location of existing and proposed buildings, signs, and other structures.
  - 3. Such additional information and plans required under the Site Plan Review provisions of the Zoning Bylaw, or any other applicable provision of the Zoning Bylaw, as the Board determines necessary for the decisions being made.
  - 4. A filing fee payable to the Town of Bourne in the amount of \$400.00 plus \$50 for advertising and \$5 per abutter for mailing.
- F. All revisions to site plans must be submitted to the office of the Planning Board no later than 72 hours prior to the scheduled meeting in which the Board will take action on said plan.

The Board, in its discretion may dismiss (without prejudice) any application, which fails to comply with the foregoing requirements, and may waive any of the submittal requirements it determines unnecessary to the determination being made.

### **2.2.3 Notice of Hearing**

Notice of Hearing will be given by the Planning Board in accordance with Ch. 40A, G.L., Section 11, as amended, by mailing and publication. The applicant is responsible for preparing notices to abutters by Certified Mail, Return Receipt Requested, with affixed postage; and to deliver them to the Planning Board agent not less than ten (10) days before the date of hearing. The notices shall be verified by Planning Board agent. Return Receipts are to be addressed to the Planning Board for further verification.

### **2.2.4 Hearings**

- A. An open public hearing will be held at the time and place specified in the notice of hearing.
- B. The hearing will proceed as follows:
  - 1. The Chairman of the Board will call the meeting to order and read the notice of hearing as published.
  - 2. The Chairman shall inform those present at the hearing of the time requirements under Ch. 40A, Section 17, as amended, for appealing of the decision of the Board.
  - 3. The applicant or his representative shall present the case to the Board.
  - 4. Parties in interest at the hearing shall be heard.
  - 5. Town representatives may be heard.
  - 6. The hearing shall be closed and no further evidence shall be heard.

### **2.2.5 Decisions**

- A. All decisions of the Planning Board shall be made in writing and shall contain, but not be limited to, the following:
  - 1. Date decision rendered.
  - 2. Application number.
  - 3. Name and address of applicant and, if different, owner.
  - 4. The place, time, and date of the public hearing.
  - 5. Findings of fact.
  - 6. Statement of applicable law.
  - 7. Decision of the Planning Board, including conditions, if any.

8. Roll Call Vote setting forth the vote of each member of the Planning Board.
9. Review by the Board in final form, including attachments, if any.

- B. A copy of the decision shall be filed with the Town Clerk.
- C. A decision granting a Special Permit shall be effective after the appeal period of twenty (20) days has expired and an appropriate notice has been filed with the Registry of Deeds. The applicant is responsible for recording the document with the Registry of Deeds.
- D. Duplicate copies of the decision shall be mailed or delivered to the applicant or his agent or attorney, the owner of the property, the Building Inspector, the Selectmen, Board of Health, and all parties in interest who at the time of the hearing request a copy.

#### **2.2.6 Records of Proceedings**

- A. The Board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact.
- B. Original summary account shall be kept with the case record in the Office of the Planning Board, a copy to be filed with the Town Clerk.
- C. All summary accounts shall be signed by the Secretary of the Planning Board who shall be the keeper of the records of said Board.

### **2.3 SITE PLAN REVIEWS**

**Reference: Section 1230, Zoning Bylaw**

#### **2.3.1 Procedural Intent**

The intent of the Planning Board is that, whenever possible, site plan review decisions will be made at the first Planning Board meeting following submittal. This can normally be accomplished for plans not requiring referral to other agencies or professional review provided that the Planning Board receives the plan by noon on the Monday preceding the Board's meeting.

#### **2.3.2 Application**

See sec. 1232 of the zoning bylaw

See schedule of fees adopted 5/25/06



### **2.3.3 Pre-Meeting Screening**

The Chairman or other officer acting in his absence or disqualification may, prior to the meeting, screen the plan and take any of the following actions:

- A. Notify the applicant and the Building Inspector that required submittal information is lacking and that such lack is likely to prevent the Planning Board from completing its review of the plan, affording the applicant an opportunity to either remedy the lack or withdraw the application.
- B. Notify the applicant of questions likely to arise for which a professional's response would be helpful, either by letter or attendance at the meeting.
- C. Refer the plan to other town agencies such as the Highway Department or Fire Department where the views of those agencies are likely to be important in the Planning Board's determination.
- D. All revisions to site plans must be submitted to the office of the Planning Board no later than 72 hours prior to the scheduled meeting in which the Board will take action on said plan.

Regardless of whether any of the above actions are taken, plans received prior to noon on the Monday preceding the Planning Board meeting (and not subsequently withdrawn) shall be placed on the agenda for that meeting upon determination that the application and plans submittals are complete. Plans received after noon on the Monday preceding a Planning Board meeting (and not subsequently withdrawn) shall be placed on the next available agenda.

### **2.3.3 Board Decision**

At it's meeting, the Planning Board may decide any of the following:

- A. The plan may be approved or disapproved with no conditions attached.
- B. If some required information has not been submitted and that lack prevents making necessary determinations for approval and if time permits (that is, if another Planning Board meeting will be held prior to the final date for report to the Building Inspector), the applicant and the Building Inspector may be notified of the deficiency and the final decision deferred. If time does not permit and information is lacking, the plan may be disapproved.

- C. If time permits, the plan may be referred to another agency or to a professional consultant.
- D. Supplemental agreements may be entered into through exchange of letters or other written means.
- E. Revised plans may be resubmitted at any time.

### **3.0 OTHER ISSUES**

#### **3.1 Street Acceptances**

**Reference: Section 1.4.6, Town Bylaws**

##### **3.1.1 Plan Submission**

In order for them to be referred to the Planning Board in time for field inspection without snow, street layout plans should be submitted to the Selectmen for acceptance procedure not later than December 1st for action at the Annual Town Meeting. The Selectmen will call a public hearing, with notice to all abutters. Petitioners prior to that hearing shall have obtained necessary documentation concerning release of fee in the street, and shall have obtained a report from the Highway Surveyor relative to the condition of the road.

##### **3.1.2 Adequacy Determination**

In recommending acceptance or not, the Planning Board will be guided by whether ways created subsequent to February 1, 1950, meet the Subdivision Regulation requirements relative to width, grade, and construction in effect when the way was created, and for older ways by whether the right-of-way is functionally adequate, and by whether equitable means are available for providing any necessary improvements.

### **3.2 MANDATORY REFERRALS**

**Reference: Section 1.4.3, 1.4.5 and 1.4.6, Town Bylaws**

#### **3.2.1 Referrals To Planning Board**

All plans for parks, recreation areas, similar land facilities for public use, or location and placement of a public building must be referred to the Planning Board for investigation and report.

#### **3.2.2 Submission Timing**

Except in extraordinary circumstances, the Planning Board will not make a favorable recommendation unless information for review is submitted at least four weeks prior to the date of the Town Meeting at which the proposal is to be acted on.

### **3.2.3 Submission Contents**

Persons or departments requesting such review should submit two copies of a plan of the site drawn to scale, showing proposed structures, parking, landscaping, and drainage; and the ground floor plan and elevations of all proposed buildings.

### **3.2.4 Meeting With Planning Board**

Persons or departments making submissions for review are urged to appear at a Planning Board meeting at the time of submission to explain their proposal.

### **3.2.5 Cape Cod Commission Referral**

**Mandatory Referrals** When a project is determined to be a mandatory Development of Regional Impact (DRI) the Planning Board Chairman at his discretion may refer the project to the Cape Cod Commission using the Cape Cod Commission DRI referral form.

**Discretionary and Jurisdictional referrals** must be made by a majority of the Board at a regularly scheduled meeting.

## **3.3 PERFORMANCE GUARANTEE**

From time to time, the Planning Board may require surety by the proper bond, sufficient in the opinion of the Planning Board to secure the performance for projects approved by the Board.

- 3.3.1** All bonds will be made by Bank Check payable to the Town of Bourne. They will be held in an escrow account and upon release, any accrued interest will also be released.
- 3.3.2** The bond will be in the amount of the remainder of work plus 15%. The applicant will submit professional quotes to the Board no later than the Friday prior to a meeting to be placed on the agenda.
- 3.3.3** The Planning Board may require bonds for commercial projects, which need site finalization and where the applicant requests a temporary occupancy permit. The bond will be released and a full occupancy permit issued at completion of work.
- 3.3.4** A bond will be required on all subdivisions requesting release of lots from the covenant prior to completion of base coat, installation of water and utilities. 5% of the total bond amount will be held for three (3) years after the completion of the development.

**3.3.5** A bond will be required on all properties requiring restoration or re-vegetation as ordered by the Planning Board. 10% of the bond will be held for one year from the date of restoration finalization.