



TOWN CLERK  
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MASSACHUSETTS

# ZONING BOARD OF APPEALS

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PHILIP R. OTTAVIANI, JR., CHAIRMAN  
SUSAN CRAIGHEAD, VICE CHAIRMAN  
RICHARD PAUL, CLERK  
Christine Long, Associate  
Karl Thober, Associate  
Robert Nislick, Associate  
Stephen Meltzer, Associate

## RULES, REGULATIONS and HEARING PROCEDURE

### Sec. 1 Scope of Rules

The following rules are adopted by the Framingham Zoning Board of Appeals in keeping with the provisions of the Zoning By-Laws of the town of Framingham and of the General Laws of Massachusetts, Chapter 40A. These rules shall become effective upon the vote of the Zoning Board of Appeals and filing with the Town Clerk and shall remain in effect until amended or rescinded. All prior rules of the Board are hereby rescinded.

### Sec. 2 Suspension of Rules

The Board may by a unanimous vote, in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of Chapter 40A of the General Laws, vote to waive strict compliance with its Rules, Regulations, Procedures and Fee Schedules.

### Sec. 3 Separability

If any provision of these rules is declared invalid because it is in conflict with the General Laws of Massachusetts or the By-Laws of the Town of Framingham, such invalidity shall have no effect on the validity of the remaining provision of these rules.

### Sec. 4 Meetings

Meetings of the Board, both hearings and deliberations shall be held on Tuesday evenings, unless changed as provided below. At least one Tuesday of the month shall be for hearings and one Tuesday of the month shall be for deliberations. Under certain and specific circumstances deemed appropriate by the Chairman, hearings and deliberations may be held on any day of the week except Saturdays and Sundays.

### Sec. 5 Special Hearings

Any request for a special hearing on a date other than that set for a regularly scheduled hearing shall be made in writing to the Chairman of the Zoning Board of Appeals. A member of the Board may make a verbal request. The Chairman, with a majority vote of the Board, may for good cause and reason shown approve or deny such a request.

### Sec. 6 Filing Petitions

A proceeding shall be commenced by filing a written petition in the general form

with the Board's administrative clerk. A complete petition must be filed not less than twenty-five (25) days before a regularly scheduled hearing date. The clerk shall transmit copies of the application in the proceeding to the members of the Board, Town Counsel, the Board of Selectman, the Planning Board and the Building Commissioner. The clerk shall give the petitioner a copy of the Zoning By-Law requirements for approval of their particular case whether it is a Special Permit or a Variance. Petitions filed with the clerk shall, at a minimum, contain the name and address of the petitioner, the nature of the relief sought and a concise statement of the facts upon which relief is predicated.

#### Sec. 7 Fee Schedule

Variances, Findings and Administrative Appeals --- \$250.00 Special Permits --- \$300.00. Fees for *Public and Local Agencies* may be waived or adjusted by a decision of the Board.

#### Sec. 8 Publication

The Zoning Board of Appeals shall publish notices required by General Laws of Massachusetts. Publication shall be in a newspaper of general circulation in the Town of Framingham.

#### Sec. 9 Notice by Mail

All notices by mail shall be in strict compliance with Chapter 40A Section 11. A letter shall be filed with the petition in each case prior to the hearing, that such notice has been mailed.

#### Sec. 10 Withdrawal of Petition

Upon the receipt of a written request, withdrawal of a petition may be allowed without prejudice for good cause shown any time before a vote has been taken.

#### Sec. 11 Briefs, Proposed Findings of Fact, Proposed Conclusion of Law

Any petitioner or parties in interest may file a brief, proposed findings of fact and proposed conclusions of law on his own motion. The Board may at any time before a hearing is closed require the submission of briefs, proposed findings of fact and proposed conclusion of law in writing.

#### Sec. 12 Procedure at Hearings

- a) The Chairman shall read into the record the public notice, state the file number, and note if any Town Meeting Members from the precinct in which the land is located are present.
- b) The Chairman will identify the voting members of the Board and the Associate Members. For each case, one Associate Member shall be identified to act as a voting alternate in case of absence, conflict of interest, illness, or inability to act in any way of one of the voting members.
- c) The petitioner or agent for the petitioner shall present evidence in support of the petition.
- d) Any letters, e-mails, or inter-office communications received by the Board and deemed pertinent to the petition by the Chairman shall be read into the record and marked as exhibits. No letter, e-mail, or inter-office communication sent anonymously will be considered as evidence.
- e) Any member of the Board may ask a question.
- f) The Board shall hear any party in support or in opposition to the petition. Rebuttal and surrebuttal shall be permitted.
- g) The Board reserves the right to limit or end all discussion when no new evidence is being brought forward.

- h) The Board may continue hearings to another night with notice of such being given.

#### Sec. 13 Decisions

Decisions must be a unanimous vote of a 3-member board for approval of special permits, variances, and appeals from determinations of the Building Commissioner. Decisions regarding alterations, extensions, or structural changes to lawful pre-existing nonconforming residential single or two-family building or structure under Section I.D.5.b of the Zoning Bylaw, and comprehensive permits under G.L. c. 40B shall require a majority vote of the Board. All notices of decisions are to be sent to the appropriate persons as required in MGL 40A. Said notices shall set forth the nature and vote of the decision, the reasons there for, and any conditions prescribed by the Board in their decision. Notice of the nature and vote of the decision shall be published by the Board of Appeals in the same newspaper that published the notice of hearing. Said publication is to occur no more than twelve (12) calendar days after the filing of the decision with the Town Clerk. Said notice shall also be mailed to the Chairperson of the precinct in which the property is located as well as the chairperson of the Town Meeting Standing Committee on Planning and Zoning, whose names shall be provided to the Zoning Board of Appeals by the Town Clerk following their election.

#### Sec. 14 Minutes

The Board shall keep a detailed record of proceedings as required by Massachusetts General Laws. Approval of minutes of previous meetings shall be made in open session by a majority vote of the Board.

#### Sec. 15 Decision Amending and Waivers

- a) The Board at the request of the Petitioner may accept a waiver of the time limitation, as set forth in Chapter 40A of the Ma. General Laws. If a request is submitted to the Board in writing and, in the opinion of the Board, additional time is deemed essential for a proper determination, such consent shall be given by a unanimous vote of the Board. Said consent of waiver shall be filed with the Town Clerk of Framingham and with the Board of Appeals.
- b) The Board may vote to re-consider its vote on a petition before the filing of its decision with the Town Clerk.

#### Sec. 16 Project Review Fees (G.L. c. 44 §53G):

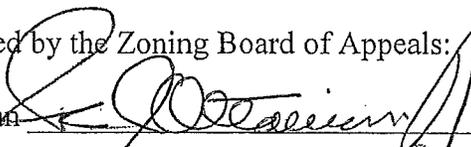
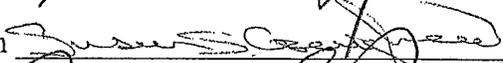
a) When reviewing an application for a special permit, variance, appeal, or chapter 40A section 6 finding, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the application. The Board may require an applicant to pay a project review fee for the reasonable costs incurred by the Board for the employment of outside consultants. The Board shall require that the applicant deposit funds in advance of the Board's hiring of the consultant based on the Board's estimate of the consultant's cost. Failure of an applicant to pay the project review fee shall be grounds for disapproval of the application.

b) The Board may engage planners, engineers, lawyers, urban designers, hydrogeologists or other appropriate professionals to assist the Board. Such assistance may include, but not be limited to, analyzing an application, peer review of technical submissions, legal assistance in drafting of decisions and related legal documents, monitoring or inspecting a project during construction or implementation, and inspecting a project for compliance upon completion.

c) An applicant may take an administrative appeal from the selection of an outside consultant to the Board of Selectmen. Such appeal must be in writing and may be taken within 7 days after the Board has mailed or hand-delivered notice to the applicant of the selection of the consultant(s). The grounds for such appeal shall be limited to whether the consultant has a conflict of interest or does not possess the minimum 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. 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 no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

d) Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer and shall be kept separate and apart from other monies as provided in General Laws Chapter 44 Section 53G. Funds shall be expended at the direction of the Board in accordance with Section 53G.

Approved by the Zoning Board of Appeals:

Chairman		Date Filed
Vice-Chairman		
Clerk		