



**WAREHAM PLANNING BOARD**

**SITE PLAN REVIEW and SPECIAL PERMIT:  
RULES and REGULATIONS**

**FEBRUARY, 2024**

2024

Duly heard by the Planning Board in a Public Hearing held on February 26, 2024, and filed with the Town Clerk on February 28, 2024 and posted on the Town Website.

The Planning Board of the Town of Wareham, Massachusetts hereby adopts the following Rules and Regulations for the conduct of its business relative to certain land use permits described in these Rules and Regulations which apply to applications filed for Site Plan Review, Special Permit and Site Plan Review/Special Permit under the Town of Wareham Zoning By-laws (the "Bylaws"). Subdivision are governed by separate Wareham Planning Board Rules and Regulations which can be found on the Town of Wareham website.

**Purpose**

These Rules and Regulations are intended to provide a source of ready reference and requirements for interested citizens of the Town and parties seeking land use permits covered by these Rules and Regulations from the Wareham Planning Board. Applicants should also refer to other requirements of the Town Bylaws as well as the General Laws for matters not covered by these Rules and Regulations.

**1.0 DEFINITIONS**

Capitalized terms used in these Rules and Regulations shall have the meaning ascribed to them in Article 16 of the By-Laws or as set forth in this section. The following additional definitions shall be used in these Rules and Regulations.

**APPLICATION** - All information and documentation required to be submitted to the Town by an Applicant for the particular land use permit being sought as provided in the By-laws and these Rules and Regulations.

**LAND USE PERMIT**-When used in these Rules and Regulations, the term "Land Use Permit" shall refer collectively or individually as the case maybe, to Site Plan Review, Special Permit or Site Plan Review/ Special Permit as set forth in Article 15 and other applicable provisions of the By-laws.

**PARTIES IN INTEREST** - The Applicant, abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred (300) feet of the property line of the subject property as they appear on the most recent applicable tax list, the Town Planning Board and the Planning Board of every abutting city or town as that term is more specifically defined in Ch. 40A, Section 11 of the General Laws. For projects with multiple lots, the 300 feet shall be measured from the outer-most lot line.

**PLANNING OFFICE** –The Town Office of Planning and Community Development

**2.0 BOARDS**

**2.1 Site Plan Review Authority**

For purpose of these Rules and Regulations, the Site Plan Review Authority (SPRA) shall be the Wareham Planning Board (WPB) except where otherwise specified.

**2.2 Special Permit Granting Authority**

For purpose of these Rules and Regulations, the Special Permit Granting Authority shall be the WPB except where otherwise provided.

**2.3 Site Plan Review/Special Permit Granting Authority** - For purpose of these Rules and Regulations, the Site Plan Review/ Special Permit Granting Authority shall be the WPB except where otherwise specified.

**2.4 Design Review Board**

The Town in consultation with the WPB may establish a Design Review Board (DRB) to provide preliminary design review assistance for projects subject to design review under the By-laws.

**2.4.1 Composition**

The DRB shall consist of the following: one or two WPB member(s); professional architect(s); engineer(s) and other design professionals and one or more general residents. If a DRB has not been constituted, the WPB shall serve as the DRB for projects subject to these Rules and Regulations until such time as the DRB is established.

**2.4.2 Role**

The DRB shall conduct a preliminary design review of the complete Application using the criteria set forth in Article 15 and other applicable provisions of the By-laws and these Rules and Regulations. The Applicant may be asked to meet with the DRB to resolve design concerns and to also provide a response to the WPB on design concerns raised during the review.

The WPB may initiate a design review by request, for any application.

For multi-family applications, the DRB shall use the process described in the design review handbook found at:

<https://www.mass.gov/files/documents/2017/10/16/handbook-approachtoch40b-designreviewa.pdf>

**2.4.3 Meetings**

Meetings of the DRB shall be considered public meetings and comply with the open meeting law pursuant to Ch. 30A, Section 20 of the General Laws (the “OML”). The agenda, minutes, correspondence and other records of the DRB shall be kept at the Planning Office and recorded at the office of the Town Clerk.

**2.4.4 Design Review Report**

Upon completion of design review, the DRB shall submit a written report to the Applicant and the WPB with its recommendations.

**3.0 COMPLETE APPLICATION – REQUIRED INFORMATION/DOCUMENTS**

An Applicant seeking one or more land use permit(s) under these Rules and Regulations must submit the complete Application to the Planning Office for review and a determination that the Application as submitted is complete. Any Application which omits any required items which has not been specifically waived as provided in these Rules and Regulations, will be considered incomplete, will not be accepted and a public hearing will not be scheduled until such time as the Application is deemed complete. All waivers must be heard at a regular meeting of the WPB and decided before the Application is deemed complete.

An Applicant shall complete and include for each applicable Land Use Permit, all required information and documentation listed in the (i) Application form, (ii) Review/Application checklist (iii) the Application fee and (iv) any other materials or information otherwise required by these Rules and Regulations, the By-laws, the General Laws and other applicable codes and

regulations. Application materials are posted on the Town Website or may be obtained from the Planning Office. An initial finding of a complete Application does not mean that additional information may not be requested during the course of the public hearing on the project.

### **3.1 Additional Application Information**

An Application will not be considered complete under the By-laws and these Rules and Regulations, unless the following additional information accompanies the Application materials, absent a specific and written waiver by the Planning Office and WPB as provided in Subsection 3.6 of these Rules and Regulations.

1. Letter of Denial from the Town Building Commissioner;
2. Verification by the Town Tax Collector that all municipal taxes owed by the Applicant and Property Owner, if different, have been satisfied;
3. Narrative statement describing the proposed project, the Applicant's objectives and any additional required Land Use permits or approvals under the By-Laws which will be sought by the Applicant;
4. Title report covering a minimum of fifty (50) years including copies of the recorded deed and all recorded easements, restrictions, takings, permits and other such matters of record affecting the property;
5. Locus map (approx. scale 1" = 2000');
6. Plan(s) of the property prepared and stamped by a registered architect, landscape architect or professional engineer who shall certify that the plan complies in all respects with the By-laws, Rules and Regulations and the General Laws. The plan shall include its relationship to the surrounding area drawn at a scale as provided in these Rules and Regulation showing the general characteristics of all land within 200' of the proposed site and including all structures, parking areas, driveways, pedestrian ways, existing Open Space and other natural characteristics.

Applicants should refer to the current version of MASS GIS Standard for Digital Plan Submission to Municipalities for specifications.

Applicants shall file a digital copy of any plans in addition to the filing requirements under these Rules and Regulation.

Applications for Special Permit should also include eight (8) prints of the plans at 11" x 17", three (3) full size prints of the plans and eight (8) copies of any required additional plans, documents or information. All submissions must also be filed digitally for posting on the Town webpage. Note: Do not include personal information that could be published on the internet.

Applications for Site Plan Review should also include eight (8) prints of the plans, three [3] full size prints of the plans and eight (8) copies of any required additional plans, documents or information. All submissions must also be filed digitally for posting on the Town webpage.

7. Zoning district[s] (noting square footage within each district if located in more than one district).
8. Total area of proposed project in square feet including wetlands and 100-year floodplain (both in square feet).
9. All contiguous land owned by the Applicant or by the owner of the property.
10. At the discretion of the WPB, 8" by 10" photographs of the site.
11. Report of the Planning Office relative to the preliminary project review.

12. Report of the DRB relative to preliminary design review.
13. Location of and features of proposed private sewer treatment facility under 310 CMR 15 (Title V) if applicable
14. Application to Town Sewer Department requesting sewer connection and letter from Town Sewer Department approving connection of the project to the Town Waste Water Treatment Facility
15. List of abutters certified by the Town Assessor's Office.
16. Receipts of notices sent by certified mail by the Applicant to all Parties in Interest with green receipt cards or other electronic proof of mailing.
17. Any additional relevant information as required by the By-Laws.

### **3.2 Contents of Plan**

The Plan shall contain the required stamp of the licensed professional who shall certify compliance as provided in these Rules and Regulations. The Plan shall be accurately drawn to a scale of 1"= 20', 1"= 40', or 1"= 100' on a D or E size sheet, where practical and appropriate to the size of the project and shall show all existing natural, manmade, and legal features of the site. The Plan(s) shall include delineations:

#### **3.2.1 Delineation of Existing Features**

1. Tree line of wooded area
2. Individual trees 18" dbh or over
3. Bogs or agricultural areas
4. All wetlands protected under 310 CMR 10.02 (1)
5. Floodplain (100 years) with base flood elevation data
6. Contour lines (@ 1' intervals in areas with proposed construction)
7. Open Space
8. General soil types

#### **3.2.2 Delineation of Existing Man-Made Features**

1. Streets, roads, private ways, walkways and vehicle accommodation areas
2. Curbs, gutters, curb cuts, drainage grates
3. Storm drainage facilities including manholes
4. Utility lines including water, sewer, electric, telephone, gas, cable television, etc.
5. Fire hydrants and location of dumpsters
6. Buildings, structures, and signs (free standing) including dimensions of each
7. Exterior lighting fixtures

#### **3.2.3 Delineation of Existing Legal Features**

1. Zoning of property (district lines)
2. Property lines (with dimensions identified)
3. Street right-of-way lines
4. Utility or other easement lines and monuments

### **3.3 The Project Development Plan**

The Applicant shall prepare and submit a project development plan containing the required stamp and certification by the licensed professional as provided in these Rules and Regulations showing all proposed changes in the (a) existing natural features; (b) existing man-made features; and (c) existing legal features. The development plan shall include:

1. Area of each new lot in square feet where applicable
2. Lot dimensions
3. Location and dimensions of all buildings and freestanding signs as well as the distances from all buildings to lot lines, streets, or street right-of-way
4. Building elevations (side, front, and back) showing building height and any proposed signs
5. Location, dimension, and designated use for all recreation areas
6. Location and dimension of all Open Space (indicate whether such open space is to be dedicated to public use or to remain private)
7. Streets (including street names) which conform to the design standards of the Planning Board's Rules and Regulations Governing the Subdivision of Land
8. Curbs and gutters, curb cuts, drainage grates
9. Drainage facilities including manholes, pipes, drainage ditches, and retention ponds
10. Sidewalks and walkways showing width and materials
11. Outdoor illumination with lighting fixture size and type identified
12. Location of/ proposed easements for all utilities including water, sewer, electric, telephone, gas, cable television
13. Fire hydrant locations
14. Location of dumpster (trash collection facilities)
15. New contour lines resulting from earth movement (@ 2' intervals) and indications of types of ground cover and other precautions to stabilize slopes
16. Vehicle parking, loading, and circulation areas showing dimensions and layout of parking spaces, travel lanes, aisles, and driveways (see also Article 9 and other applicable provisions of the By-laws)
17. Landscape plan showing proposed new plantings by size and location or construction of other devices to comply with screening and shading requirements (see also Article 10, 15 and other applicable provisions of the By-Laws )
18. Sediment & Erosion Control Plan showing pre-, during- and post-construction methods for control and stabilization
19. Stormwater management and control plans
20. Any additional relevant features or information as required by the By-Laws

### **3.4 Site Plan Review Impact Statement**

In order to evaluate the impact of the proposed project on Town services and the welfare of the community, the Applicant shall submit an impact statement in two parts with any application for Site Plan Review.

Part one (1) shall describe the impact of the proposed project on the following:

1. All applicable Town services including but not limited to schools, sewer service, water systems, parks, fire, and police protection;

1. The roads in the immediate vicinity of the proposed development (include an estimate of both peak and average daily traffic counts), vehicle speeds, pavement conditions and safety considerations)
2. The ecology of the area within the site and any significant off-site impacts.

Part two (2) shall describe what actions are being taken to mitigate the impacts described in Part one.

### **3.5 Posting of Complete Application and Hearing Materials**

At least fourteen (14) days before the scheduled public hearing for a land use permit under these Rules and Regulations, the Applicant shall provide to the Planning Office for posting, an electronic copy of the complete Application. Applicant shall thereafter promptly submit to the Planning Office for uploading electronic copies of any and all additional documents or information submitted to or requested by the Planning Office or by the WPB in the course of the public hearing. Failure to comply may result in a postponement or continuance as the case may be, of the public hearing.

### **3.6 Waiver of Application Documentation or Information**

The WPB working in consultation with the Planning Office may, in its discretion, by a majority vote, agree to waive one or more documents or elements required to be submitted as part of the complete Application under this Section. A waiver may be granted where such action is in the public interest and not inconsistent with the intent and purpose of the Zoning Bylaws.

Such waiver shall be in writing and made part of the public record of the hearing and shall include the conditions which allowed the waiver.

## **4.0 REVIEW PROCEDURES**

### **4.1 Pre-Application Review Processes Updating of Complete Application**

To promote better understanding of the project scope and to avoid misunderstanding and delay, the Applicant shall prior to submitting an Application for land use permit(s) under these Rules and Regulations, meet with the Planning Office to complete a preliminary - review of the project to ensure the requirements of the By-laws and these Rules and Regulations have been met.

The Applicant shall also complete preliminary design review of the project with the DRB prior to submitting the complete Application. All requests for such review shall be accompanied by a copy of the complete Application including all required plans and information. The report issued by the DRB shall become part of the record of the hearing.

### **4.2 Filing of Application**

The Applicant shall update the Application with any required changes arising from the pre-application review and processes and submit the Application to the Planning Office for confirmation that the Application is complete. The Applicant shall file the complete Application for the applicable land use permit(s) being sought with the Town Clerk. A copy of the application including the date and time of filing certified by the Town Clerk shall be filed forthwith with the WPB. Applicant should also consult provisions governing the applicable land use permit(s) being sought under these Rules and Regulations, and By-Laws for additional information and requirements.

Failure of the Applicant to submit a complete Application as required under these Rules and Regulations, will prevent scheduling of the public hearing or meeting and may be

grounds for a recommendation of disapproval to the WPB or their disapproval of the Application.

#### **4.3 Review by Town Officials**

The WPB shall not close a public hearing on an Application for a Land Use Permit under these Rules and Regulations until Town Boards, Commissions and Departments have been notified and have been allowed twenty-one (21) days from delivery of the complete Application to submit a written report or recommendations thereon. Any report not received within the twenty-one (21) day period, may be deemed to be lack of opposition to the Application.

The WPB shall circulate one copy of the Complete Application to the following boards, commissions, agencies and/or departments for their information and to request review and comments:

1. Select Board
2. Sewer Commissioners
3. Conservation Commission
4. Fire Department
5. Police Department
6. Water Department
7. Health Department
8. Building Department
9. Emergency Medical Services
10. Town/Consulting Engineer
11. Municipal Maintenance
12. Others as determined to be appropriate

Notwithstanding the forgoing, Town Boards, Commissions and Departments may submit comments after this period for good cause shown including but not limited to changes made to the project during the public hearing process.

#### **4.4 Relation to Conservation Commission Approval**

The Applicant shall coordinate the approval process by the Conservation Commission relative to the proposed project with the WPB including obtaining either:

1. A Determination of Non Applicability of the Massachusetts Wetlands Protection Act under Ch.131, Section 40 of the General Laws and the Town Wetlands Protection By-laws; or
2. An Order of Conditions or Order of Resource Area Delineation as provided in the By-laws.

### **5.0 CONDUCT OF PUBLIC HEARINGS AND MEETINGS**

#### **5.1 Quorum and Valid Vote**

A quorum for all Land Use Permit activities under these Rules and Regulations shall consist of four (4) members. Except where provided under the General Laws, a valid vote on Site Plan Review shall be a simple majority of the members present, as long as there is a quorum. A tie vote shall be recorded as such and shall mean a rejection of the Site Plan Review. Approval of a Special Permit shall require approval of the grant by a vote of four (4) members.



## **5.2. Scheduling**

Regular meetings on WPB cases or hearings shall be held on the first and third Monday evenings of each month and shall commence no earlier than 6:00 PM at Town hall or other location as set forth in the notice for the meeting/hearing. All meetings shall be simultaneously telecast as Zoom meetings. If any meeting/hearing date falls on a holiday or a conflict arises, the WPB may designate an alternative day or time to meet. Special meetings or hearings may be called by the Chair, the Clerk in the Chair's absence or a majority of the Board. Written notice of special meetings shall be posted in accordance with the Open Meeting law.

## **5.3 Notice**

The Planning Office shall provide notice of the public hearing to the Applicant who will send that notification to all Parties in Interest of the time, date and nature of the public hearing. Notices must be sent by certified mail, return receipt requested with the notice prepared by the Planning office. The cost of certified mailing shall be borne by the Applicant. The signed receipts or "green cards" or other means of evidencing certified mailing of the notices to all Parties in Interest shall be submitted to the WPB prior to the public hearing.

## **5.4 Legal Notice**

The Planning Office shall provide notice of the public hearing by advertisement in a newspaper of general circulation in the Town, a minimum of fourteen (14) days before the scheduled hearing. The cost of the advertisement shall be borne by the Applicant who shall present a check for the advertisement(s) as part of the submission.

## **5.5 Conduct of Meetings**

At the opening of a meeting or public hearing, a summary of the question or issue shall be stated. Comments shall be limited to the agenda item or subject advertised. The Chair shall first call for statements from the Applicant.

The Applicant or representative shall be present at all duly called meetings or public hearings of the WPB relating to the requested Land Use Permit including any request for extension, modification or other relief under the By-laws. Persons in attendance wishing to speak shall be given an opportunity to comment. Statements shall be clear and brief. The Chair may allow questions by the WPB, or the public at the end of the presentation of each individual and may allow time for rebuttals. It shall be made clear to those present that all questions and comments must be directed through the Chair only after being recognized by the Chair.

All persons recognized shall approach the hearing table or microphone in order to facilitate proper audio recording of comments and give the individual's name and address. Individuals who have a personal or financial interest with respect to a matter should frankly and completely disclose their interest before speaking. The Chair may rule redundant statements out of order and set a reasonable time limit on statements. In order to give all a fair opportunity to speak, no one who has addressed the WPB or the proponent on any particular item shall speak again until all others wishing to speak have done so.

The Chair shall ensure an orderly meeting or hearing and shall take necessary steps to maintain the order and decorum of the meeting or hearing at all times. The Chair shall reserve the right to terminate the discussion in the event the debate becomes unruly,

unmanageable or of excessive length. Unruly or profane language or behavior shall not be tolerated.

#### **5.6 Agenda**

An Agenda for each regular meeting or public hearing shall be prepared by the Director of the Planning Office in consultation with the Chair. Any WPB member may request that an item be placed on the agenda for consideration. All new Applications for review must be deemed complete by the Planning Office. Applicants shall meet the filing deadlines as established by the WPB and posted on the Town Website as updated from time to time.

The Director of the Planning Office or staff, shall provide the WPB with a summary of the project and relief sought including available information on each subject to be discussed.

The agenda shall be posted with the Town Clerk's office by the Wednesday preceding the regular Monday meeting or hearing. The agenda shall indicate the subjects to be discussed and the name of the Applicant.

The Chair may deviate from the agenda with the concurrence of a majority of the Board members.

#### **5.7 Adjudicatory Hearing /Absent Member**

A WPB member who is absent from a public hearing, shall not be disqualified from voting in the matter solely due to the member's absence from no more than a single session of the hearing at which testimony or other evidence is received provided, prior to that meeting, the member certifies in writing that the member reviewed all evidence received at the missed session including listening to an audio- or audio-visual recording of the meeting. The written certification shall be part of the record of the hearing.

#### **5.8 Ethics Rules**

WPB members shall comply with the applicable Massachusetts Ethics Laws and Guidelines and shall consult with Town Counsel or the Massachusetts Ethics Commission for guidance.

#### **5.9 Open Meeting Laws**

All meetings/hearings under these Rules and Regulations shall comply with and be open to the public in accordance with the Open Meeting Law.

#### **5.10 Role of Town Counsel**

The WPB may in its sole discretion, without notice to the Applicant, request the presence of Town Counsel at any public meeting/hearing to advise the WPB on matters before them. The role of Town Counsel is to provide legal advice to the WPB on matters pending before the WPB. Applicants must seek their own legal counsel and may not under any circumstances, contact, consult with or otherwise communicate with Town Counsel in any manner without the approval of the Select Board.

#### **5.11 Record of Meeting**

For each agenda item at a meeting/hearing of the WPB or DRB in connection with Land Use Permits under these Rules and Regulations, the minutes of the meeting/hearing shall be taken and include a title and/or description of the agenda item being discussed, a summary of the key discussion points, a list of the materials provided to the Board and record of all motions and votes taken by the Board related to the agenda item. Minutes of all Board meetings/hearings shall be posted on the Town website.

## **6.0 SPECIAL PERMIT REVIEW and DECISION PROCESS**

### **6.1 Procedure for Review**

For Special Permits, the WPB shall follow the procedures set forth in Ch. 40A, Section 9 of the General Laws, these Rules and Regulations and the By-laws, which include the following:

1. Within sixty-five (65) days of receipt of a complete Application, the WPB shall hold a public hearing for which notice shall have been given as provided in Ch. 40A, Section 11 of the General Laws.
2. Within ninety (90) days following the close of the public hearing, the WPB shall take final action on the Application unless this time frame is extended by mutual agreement between the WPB and the Applicant and notice of any extension is given to the Town Clerk prior to expiration of the ninety-day limit.
3. A Special Permit can only be granted by an affirmative vote of four (4) members of the WPB.
4. A Special Permits shall lapse within two (2) years of the effective date of such grant as provided in the By-laws, unless substantially commenced, which includes receipt of a Building permit and continuous progress in construction.

### **6.2 Public Hearing; Notice**

#### **6.2.1 Notice**

Before the WPB takes any action to grant, modify, disapprove or extend the effective date of a Special Permit, the WPB shall hold a public hearing at which Parties in Interest shall have an opportunity to be heard in person or by agent. Notice of the time and place of the public hearing and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town once in each of two (2) successive weeks. The first publication shall be not less than fourteen (14) days before the date of the public hearing. Notice shall also be posted in Town hall. Notice of the hearing as prepared by the Planning Office, sent to all Parties in Interest shall be mailed by the Applicant by certified mail with return receipt. Returns shall be submitted to the Planning Office or WPB prior to the public hearing.

### **6.3 Review and Final Action**

The WPB shall review the project as described in the Application relative to its impact on the health, safety and welfare of the community and for its compliance with the specific review criteria set forth in Article 15 and other provisions of the By-laws in taking final action to either grant, grant with conditions or deny an Application. The WPB shall also review the Application including required additional information for compliance with all other applicable conditions and review criteria set forth in the By-laws, these Rules and Regulations and the General Laws including Ch. 40A, section 9.

Following final action, the WPB shall prepare a record of its proceedings which shall include the Application submitted, any additional materials or information submitted during the course of the review, the vote of each WPB member upon each question and the reasons for its decision and of its official actions. The decision of the WPB, including the proceeding set forth above shall be filed with the Town Clerk within fourteen (14) days after the date of the decision and the decision mailed to the Applicant and Parties in Interest.

### **6.3.1 Effective Date and Appeals**

A Special Permit or any extension or modification shall take effect when a copy of the decision certified by the Town Clerk that either:

1. Twenty (20) days have elapsed after the decision has been filed with the Town Clerk and no appeal has been filed; or
2. Any appeal that has been filed has been dismissed or denied has been recorded in the applicable Plymouth County Registry of Deeds or Registry District of the Land Court.

Any appeal from the decision of the WPB must be made pursuant to Ch. 40A, Section 17 of the General Laws and must be filed within twenty (20) days of the filing of the decision with the Town Clerk.

## **7.0 SITE PLAN REVIEW and DECISION PROCESS**

### **7.1 Order of Review**

The WPB shall evaluate all site plans as the Site Plan Review Authority for uses subject to Site Plan Review. All site plans subject to Site Plan Review shall be filed as provided in section 4.2 of these Rules and Regulations. In cases where the WPB must approve a Site Plan for an as of right use, the WPB shall hold a public hearing and act as the Site Plan Review Authority. In cases where a Site Plan requires a Variance or other relief from the By-Law, the Zoning Board of Appeals will hold a Public Hearing on the Variance or other relief and act as the Site Plan Review Authority.

### **7.2 Procedure for Review**

The WPB shall follow the procedures in these Rules and Regulations and the By-laws which include the following:

1. Within sixty-five (65) days of receipt of a complete Application, the WPB shall hold a public hearing for which notice shall have been given as provided in Ch. 40A, Section 11 of the General Laws.
2. Within ninety (90) days following the close of the public hearing, the WPB shall take final action on the Application unless this time frame is extended by mutual agreement between the WPB and the Applicant and notice of any extension is given to the Town Clerk prior to expiration of the ninety-day limit.
3. Site Plan Review approval can only be granted by an affirmative vote of four (4) members of the WPB.
4. Site Plan Review shall lapse two (2) years from the effective date of the Site Plan Review as provided in the By-laws.

### **7.3 Public Hearing; Notice**

#### **7.3.1 Notice**

Before the WPB takes any action to approve without conditions, approve with conditions or disapprove a Site Plan, or extend the effective date of Site Plan Review, the WPB shall hold a public hearing at which Parties in Interest as defined in Ch. 40A, Section 11 of the General Laws shall have an opportunity to be heard in person or by agent, Notice of the time and place of the of the public hearing and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town once in each of two (2) successive weeks. The first publication shall be not less than fourteen (14) days before the date of the public hearing. Notice shall also be posted in

Town hall. Notice of the hearing shall be mailed by the Applicant to all Parties in Interest at least ten (10) days before the hearing. The signed green cards or other means of evidencing certified mailing to all Parties in Interest shall be submitted to the WPB prior to the public hearing.

### **7.3.2 Criteria for Review and Final Action**

The WPB shall review the Application relative to its impact on the health, safety and welfare of the community and compliance with the specific review criteria set forth in Article 15 and other applicable provisions of the By-laws in taking final action to either approve without conditions, approve with conditions or deny an Application for Site Plan Review. When the uses are otherwise as-of-right, the basis for denial must be a failure on the part of the Applicant to meet the minimum standards of the Zoning Bylaws. The WPB shall also review the Application and required additional information for compliance with all other applicable conditions and review criteria set forth in the By-laws, these Rules and Regulations and the General Laws.

Following final action, the WPB shall prepare a detailed record of its proceedings which shall include the Application submitted, any additional materials or information submitted during the course of the review, the vote of each WPB member upon each question and the reasons for its decision and of its official actions. This decision of the WPB, including the proceeding set forth above shall be filed with the Town Clerk within fourteen (14) days after the date of the decision and the decision mailed to the Applicant and Parties in Interest.

### **7.3.3 Effective Date and Appeals**

A Site Plan Review or any extension or modification shall take effect when a copy of the decision certified by the Town Clerk that either:

1. Twenty (20) days have elapsed after the decision has been filed with the Town Clerk and no appeal has been filed; or
2. Any appeal that has been filed has been dismissed or denied has been recorded in the applicable Plymouth County Registry of Deeds or Registry District of the Land Court

Any appeal from the decision of the WPB must be made pursuant to Ch. 40A, Section 17 of the General Laws and must be filed within twenty (20) days of the filing of the decision with the Town Clerk.

If no appeal of the decision is made within twenty [20] days following filing of the decision with the Town Clerk, four (4) copies of the final approved plans, with conditions, shall be provided to the WPB by the Applicant and be distributed as follows:

- a) WPB –2 sets
- b) Building Commissioner–1 set
- c) Site Inspection Program Authority as provided in the By-laws –1 set

## **8.0 LAND USE PERMIT ADMINISTRATION**

### **8.1 Performance Guaranty**

The WPB may, in its discretion based upon the complexity, size and character of the proposed project require security in an amount as they reasonably determine based on the estimated cost to

complete the project and upon other conditions it may reasonably determine for the satisfactory completion of the project in compliance with the terms of the Land Use Permit approval and other applicable provisions of these Rules and Regulations, the applicable By- Laws, the General Laws and applicable codes and regulations. Items covered under the performance security will be landscaping, drainage, paving and other site improvements deemed necessary for the benefit of the public realm. Cost estimates used for determining the amount of security shall be prepared by an engineer or contractor, printed on letterhead, and include unit costs and total amount of materials. The amount of the security will typically be at least 125% of the estimate. The form of the bond must be approved by the Select Board.

### **8.2 Site Plan Review and Special Permit Application Fees**

A non-refundable filing fee based on the current Filing Fee Schedule calculated based on the type and size of the project shall be remitted to the WPB at the time the Application is filed.

### **8.3 Land Use Permit Review Additional Fees**

1. **Applicability:** Pursuant to M.G.L Chapter 40, 22 (f) (a) and the By-laws, administrative and/or technical review fees may be imposed by the WPB for review of a Land Use Permit based on an itemized budget estimate prepared by an outside consultant. These fees shall be the reasonable costs to be incurred by the WPB to assist in the review of the proposed project. The Review Fee shall not be a fixed amount but will vary with the costs incurred by the WPB.
2. **Fee Submittal:** The Applicant shall submit the Review Fee to the WPB upon the receipt of notice and estimate of fee prior to the public hearing. The failure to pay the Review Fee shall constitute grounds for denial of the Land Use Permit.
3. **Additional Review Fees:** If the consultant(s) review of the Land Use Permit exceeds the original estimate or should the services of outside consultants be required after the initial Review fee has been expended, then the Applicant shall be required to pay all additional fees incurred to cover the cost of additional reviews. A new estimate for additional review services shall be prepared and remitted to the Applicant. The Applicant's failure to pay these fees in their entirety shall be reason for the WPB to deny or reject approval of the Land Use Permit.

### **8.4 Technical Review Fees-including construction observation/inspection fees**

The WPB may decide that the assistance of outside consultants is warranted to observe and inspect the construction of required underground infrastructure and required public improvements that are not within the purview of the Building Inspector, due to the size, scale or complexity of the approved plan or because of its impact on the town.

If the WPB determines that construction observation/inspection services are required, the Applicant shall pay a construction observation/inspection fee prior to the issuance of a building permit. This fee shall not be a fixed amount but will vary with the costs incurred. This fee shall be the reasonable costs to be incurred to observe and inspect the construction of the proposed improvements and shall be based on an estimate provided by the consultant.

### **8.5 Other Costs and Expenses**

All additional expenses for use of outside consultant reviews, ancillary report reviews, supplemental studies, advertising, publication of notices, postage and mailings and all other expenses in connection with the project including without limitation, sampling and/or testing, shall be borne by the Applicant .

### **8.6 Payment of Fees**

1. Fees paid by the Applicant shall be by a certified bank check made payable to the Town and submitted to the Planning Office.
2. Fees paid to the WPB by the Applicant pursuant to this Section other than application fees shall be deposited with the Town Treasurer who shall establish an account for this purpose. Fees for outside consultants shall be held as provided in Ch. 44, section 53G of the General Laws. Expenditures may be made at the discretion of the WPB without further appropriation. Expenditures shall be made only for services rendered in connection with a specific project or projects for which a fee has been or will be collected from the Applicant. Accrued interest may also be spent for this purpose.
3. At the completion of the 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. For the purpose of these regulations, any person or entity claiming to be the Applicant's successor in interest shall provide the appropriate Board with documentation establishing such succession in interest.

### **9.0 ADOPTION/AMENDMENT**

These Rules and Regulations may not be inclusive of all applicable provisions of the By-Laws, the General Laws or other requirements of the WPB. Nothing in these Rules and Regulations preempts more restrictive Massachusetts or local regulations or requirements.

These Rules and Regulations may be amended from time to time by a majority vote of the WPB at a meeting as an agenda item.

WAREHAM TOWN CLERK  
2024 FEB 29 PM3:20

