

# **RULES & REGULATIONS FOR SITE PLAN REVIEW, SPECIAL PERMIT, VARIANCE APPLICATIONS BY THE WAREHAM ZONING BOARD OF APPEALS**

## **2024**

This document constitutes the Rules & Regulations of the Wareham Zoning Board of Appeals for the applications filed for Site Plan Review and/or Special Permit and/or Variance under the Wareham Zoning By-Laws.

Duly heard by the Zoning Board of Appeals in a Public Hearing held January 24, 2024, and filed with the Town Clerk on February 5, 2024.

### **1.0 INFORMATION REQUIRED:**

The following information could be requested to be included in an application, unless otherwise approved for submission. Information shall be commensurate with the nature of the application. The more complex the project, the more information that may be required.

The information presented should match the criteria for review. As an example, an application for a Variance shall include information that just addresses the four criteria found in State law at MGL Chap.40A sec.10, while a Site Plan Review may require most, if not all, of the information listed here.

#### **1.1 GENERAL INFORMATION**

Use the form provided or otherwise include the following:

1. Developer name, address, telephone number;
2. Property owner name, address, telephone number legal;
3. Relationship between developer and property owner;
4. Date of application;
5. Statement briefly describing the project;
6. Locus map (1" = 2000');
7. Location of property to surrounding area (This plan shall show at a scale of not less than 1" = 100' the general characteristics of all lands with 200' of the proposed site and shall include structures, parking areas, driveways, pedestrian ways and natural characteristics.);
8. Zoning district (square feet within each district if more than one district);
9. Total area of project in square feet to include wetland and 100-year floodplain (both in square feet);
10. All contiguous land owned by the applicant or by the owner of the property.

#### **1.2 EXISTING FEATURES**

1. Plans shall be accurately drawn to a scale of 1"= 20', 1"= 40', or 1"= 100' where practical and appropriate to the size of the proposal and shall show all existing natural, manmade, and legal features of the site.
2. Such plans are to include but not be limited to the following:  
Existing Natural 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) (a-d);
  5. Floodplain (100 years) with base flood elevation data;
  6. Contour lines (2' intervals);
  7. General soil types.

Existing Man-Made Features

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

**Existing Legal Features**

1. Property deed
2. Zoning of property (district lines);
3. Property lines (with dimensions identified);
4. Street right-of-way lines;
5. Utility or other easement lines;
6. Monuments.

**1.3 THE DEVELOPMENT PLAN**

The development plan shall show 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;
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 widths and materials;
11. Outdoor illumination with lighting fixture size and type identified;
12. Utilities; water, sewer, electric, telephone, gas, cable TV;
13. Fire hydrant locations;
14. Dumpster locations (trash collection facilities);
15. New contour lines resulting from earth movement (at 2 foot intervals) and
16. Sediment and erosion controls including types of ground cover and other precautions to stabilize slopes;
17. Vehicle parking, loading, and circulation areas showing dimensions and layout of parking spaces, travel lanes, aisles, and driveways (see also Zoning Bylaw Article 9);
18. Proposed new plantings by size and location or construction of other devices to comply with screening and shading requirements (see also Zoning Bylaw Article 10).

**1.4 IMPACT STATEMENT FOR SITE PLAN REVIEWS**

In order to evaluate the impact of the proposed development to town services and the welfare of the community, there shall be submitted for all Site Plan Reviews an impact statement in two parts.

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

1. All applicable town services including but not limited to schools, sewer service, water systems, parks, fire, and police protection;
2. The roads in the immediate vicinity of the proposed development (include an estimate of both peak and average daily traffic counts);
3. The ecology of the area within the site and any significant off-site impacts.

1.4.2 Part two (2) shall describe what actions have been taken to mitigate the impacts described in part one.

## **2.0 PROCEDURES**

### **2.1 PRE-APPLICATION REVIEW**

To promote better understanding and to avoid misunderstanding, applicants are recommended to submit preliminary or completed plans and materials to the Town Planner or the Permitting Authority's designated agent for informal review to ensure that the requirements of Site Plan Review or Special Permit or other relief have been met.

In addition, an instruction packet is available online and in the Planning Office for assistance in filling out the forms.

### **2.2 APPLICATION**

After completion of a Pre-Application Review, the application should be filed with the Town Clerk. Criteria governing the issuance of permits may be found in the Town of Wareham Zoning By-Laws. The applicant shall accompany the application to the Permitting Authority with eight (8) prints of the plans and up to eight (8) copies of any additional plan information required of the applicant. All application materials and documents shall also be filed electronically. Failure of the applicant to submit the information required under these Rules & Regulations, herein, may be grounds for disapproval of the application.

### **2.3 REVIEW AND DECISION**

The Permitting Authority shall evaluate all site plans and uses subject to Site Plan Review and/or Special Permit and/or Variance.

### **2.4 REVIEW AND APPROVAL PROCEDURE**

#### **2.4.1 Use of Outside Consultants**

1. After the applicant has filed a Site Plan and/or Special Permit, the Permitting Authority may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed project or its potential impact on the Town. In hiring outside consultants, the Permitting Authority may engage the services of engineers, planners, lawyers, urban designers or other appropriate professionals who can assist the Permitting Authority in analyzing the application and project to ensure compliance with all relevant laws, By-Laws and regulations. If the Director of Planning determines that such services are required, the applicant shall pay a Consultant Review Fee prior to the public hearing for the review of the application by the outside consultants.

#### **2.4.2 Review by Town Officials**

1. The Permitting Authority shall not hold a public hearing on a Site Plan Review application until Town Boards, Commissions and Departments have been notified and have been allowed twenty-one (21) days from delivery of site plan documents to submit a written report or recommendations thereon. If reports are not received within the twenty-one (21) day period, this shall be deemed lack of opposition thereto.
2. The Permitting Authority shall circulate one copy of the application documents to the following boards, commissions, agencies and/or departments for their information and to request their review and comments:
  - a) Select Board

- b) Sewer Commissioners
- c) Conservation Commission
- d) Fire Department
- e) Police Department
- f) Water Department
- g) Health Department
- h) Building Department
- i) EMS
- j) Town/Consulting Engineer
- k) Municipal Maintenance
- l) Others as determined to be appropriate

#### 2.4.3 Public Hearing

##### 1. General

In cases where the Site Plan also involves a Special Permit and/or Variance, the Zoning Board of Appeals acts as the Permitting Authority and will hold a single Public Hearing on all the applications.

##### 2. Timing

The Permitting Authority shall hold a Public Hearing within 65 days of the submission of the application.

##### 3. Abutter Notice

The Permitting Authority shall provide the public hearing notice to the applicant who will notify all abutters and abutters to the abutters within three hundred (300) feet of the parcel of the time, date and nature of the public hearing. The list of abutters shall be obtained and certified by the Assessor's office. Said notification shall be by certified mail, return receipt requested, prior to the hearing. The cost of certified mailing shall be borne by the applicant. The signed green cards [or returned mail] from all abutters and parties of interest shall be submitted to the Permitting Authority prior to the hearing.

##### 4. Legal Notice

The Permitting Authority shall provide notice of the public hearing by advertisement in a newspaper of general circulation in the town, a minimum of fourteen (14) days prior to the public hearing and, again, a minimum of 5 days prior to said 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. Permitting Authority Action

After the close of the Public Hearing, the Permitting Authority shall approve, conditionally approve or deny an application within 60 days for Site Plan Reviews, and 65 days for Special Permits. If the Permitting Authority approves a plan with conditions, those conditions shall be stated on the Certificate of Approval. Four (4) copies of the final approved plans, with conditions, shall be provided to the Permitting Authority within 21 days of the decision and be distributed as follows:

- a) Zoning Board –2 sets
- b) Building Inspector –1 set
- c) Persons/Agency Inspecting the Site –1 set

## 2.5 ADMINISTRATION

### 2.5.1 Filing Fee Schedule

A non-refundable filing fee shall be remitted to the Permitting Authority at the time the application is filed. The fee schedule is as follows:

#### a. Application

- 1. Minor Residential property change (pool, porch, addition of less than 300 sq.ft. footprint) \$150
- 2. Residential; single or two-family property \$300
- 3. Multi-family/Condominium \$500 (plus \$20 for each unit over 3 units)
- 4. Commercial/industrial Building (Up to 5000 sq. ft.) \$500

5. Commercial/Industrial Building (Over 5000 sq. ft.) \$750

b. Public Notice

1. Newspaper Ads \$150 [Check made out to *Wareham Week*]
2. Additional Mailings - Determined at time of application

c. Checks are to be made out to the *Town of Wareham* except where noted.

2.5.2 Consultant Review Fee.

1. **Applicability:** Pursuant to M.G.L Chapter 40, 22 f, and Chapter 44, 53G, a Consultant Review Fee may be established by the Permitting Authority for review of the application based on an itemized budget estimate prepared by an outside consultant. This fee shall be the reasonable costs to be incurred by the Permitting Authority 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 Permitting Authority for special reviews.
2. **Fee Submittal.** The applicant shall submit the Review Fee to the Permitting Authority upon the receipt of notice and estimate of fee from the Permitting Authority and prior to the Public Hearing. The failure to pay the Review Fee shall constitute grounds for denial of the proposed application.
3. **Additional Review Fees:** If the consultant(s) review of the application 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 Permitting Authority to deny approval of the plan.

2.5.3 Construction Observation/Inspection Fee

1. The Permitting Authority 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.
2. If the Permitting Authority 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.

2.5.4 Other Costs and Expenses

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

2.5.5 Payment of Fees

1. When the Review Fee and the Construction Observation/Inspection Fee are received by the Permitting Authority pursuant to this Section, they shall be deposited with the Town Treasurer who shall establish an account for this purpose. Expenditures from this account may be made at the discretion of the Permitting Authority without further appropriation. Expenditures from this account 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.
2. At the completion of the project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. For the purpose of these regulations, any person or entity claiming to be the applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

3. Performance Bonds

- a. When the Board feels it is necessary to protect the town's interests in the completion of the project, the Board may request a Performance Bond be provided by the applicant to ensure completion of the infrastructure and landscape elements. The form of the surety may be cash, tripartite agreement, or insurance bond. Depending on the type of surety, approval by the Select Board may also be necessary.