

TOWN OF MARSHFIELD  
ZONING BOARD OF APPEALS

RULES AND REGULATIONS  
(Adopted November 7, 1995)

These Rules and Regulations have been prepared by the Zoning Board of Appeals in compliance with Chapter 40A, Sections 9 and 12 of the Massachusetts General Laws, as amended, and supersede those dated October 16, 1990.

I ORGANIZATION

A. Members and Officers:

The Zoning Board of Appeals shall consist of five regular and two associate members as may be appointed by the Board of Selectmen. The regular members shall elect annually from their number a Chairman, Vice-Chairman and Clerk.

B. Powers and Duties of the Chairman:

The Chairman shall vote and be recorded on all matters coming before the Board. Subject to these Rules, the Chairman shall issue the call for and preside at all meetings and hearings and may appoint a member of the Board to carry on the duties of the Hearing Officer; decide all points of order, unless overruled by a majority of the panel in session at the time; prepare and submit all reports required by law; and appoint such committees as may be found necessary or desirable.

In addition to powers granted by the Massachusetts General Laws, the Bylaws of the Town or otherwise, and subject to these Rules and further instructions of the Board, the Chairman or his designee shall transact the official business of the Board, sign all purchase orders for expenditures by the Board, supervise the work of the Clerk and Zoning Aide; request necessary help, direct the work of all subordinates, and exercise general supervisory power.

C. Powers and Duties of the Vice-Chairman:

The Vice-Chairman shall vote and be recorded on all matters coming before the Board. The Vice-Chairman shall have such powers and be charged with such duties as the Chairman shall designate, and shall act as Chairman when the latter is absent or otherwise unable to perform his duties.

D. Powers and Duties of the Clerk:

The Clerk shall vote and be recorded on all matters coming before the Board. The Clerk shall have such powers and be charged with such duties as the Chairman shall designate, and shall act as Chairman when the Chairman and Vice-Chairman are absent or otherwise unable to perform their duties. If the Clerk is absent or otherwise unable to perform his duties, the Chairman or Vice-Chairman may designate an acting Clerk.

E. Power and Duties of Associate Members:

The Chairman of the Board shall designate an Associate Member to sit on the Board in case of the absence, inability to act, or conflict of interest on the part of any Board members. In the event of a vacancy on the Board, the Chairman will meet with the Board of Selectmen to designate an Associate Member to act as a regular member to fill the un-expired portion of the vacant term.

F. Powers and Duties of the Zoning Aide:

The Board may hire a Zoning Aide to carry out the clerical work of the Board, including but not limited to all correspondence, keeping of records of the Board's proceedings, compilation of all required records, maintenance of necessary files, preparation and distribution of legal notice of all hearings and decisions as required by the Massachusetts General Laws.

G. Meetings and Hearings of the Board:

All meetings and hearings of the Board shall be open to the public, with notice thereof posted publicly as required by law.

A quorum of the panel shall be four unless otherwise provided for by law. (See Article III of these Rules and Regulations.)

## II APPLICATION FOR HEARING

A. Standing to Seek Relief:

The Board may hear applications from any owner of land as defined by the Marshfield Zoning Bylaw, or any aggrieved party as defined in the statute.

B. Approved Forms:

Every appeal, petition, or application to the Board shall be complete in all respects and shall be submitted on approved forms adopted for that purpose. Approved forms are incorporated into these rules and attached hereto as Exhibit 1. Any other communication, whether or not it purports to be an appeal, petition, or application, shall constitute mere notice of intention to seek relief, until such time as it is properly submitted on an approved form.

C. Manner of Filing:

It is recommended that all applications be reviewed by the Zoning Enforcement Officer and the Zoning Aide prior to filing with the Town Clerk. Four copies of the completed application and ten copies of the accompanying site plan shall be filed with the Town Clerk; the completed application consists of all items listed in Section D, which Section is listed below under "Submission Requirements. Upon receipt of this application, the Town Clerk will issue one copy of the application and site plan to the Building Department and two copies of the application with eight copies of the site plan to the Zoning Board of Appeals, unless otherwise directed by the

Zoning Aide. The application shall include all items in II-D for which a waiver has not been granted. (see below II-E)

D. Submission Requirements:

At the public hearing the Board will discuss and make its decision on the basis of the plans submitted at the time of filing, except where the plans in question have been revised after site plan review or where the Board shall otherwise determine for good cause shown.

An instruction sheet and other forms will be available at the office of the Board or the Building Department. To be accepted as a filing the application must include:

1. Application for Hearing - Form 2 - bearing the signature of the property owner and applicant, or the appellant, or their duly authorized agent(s).

2. Requested Findings of Fact - Form 2A-Appeal. Form 2B-Variance. Form 2C-Special Permit. Form 2D-Site Plan Approval. Form 2E Special Permit for Residential Accessory Apartment; forms shall bear the signature of the property owner and applicant, or the appellant, or their duly authorized agent(s).

3. The Deed or Land Court Certificate of Title to the subject property, or other evidence of the applicant's standing to seek relief (see above, II-A). Easements, rights of way and other legal encumbrances mentioned in the Deed or Certificate should also be included.

4. Plot Plan - the latest recorded plan of the subject property; or if no such plan exists, a plan of the land endorsed by a registered land surveyor. The plot plan shall show at least the following: scale, north arrow, zoning district, lot dimensions and area, open space, flood plain line, wetland resource areas and buffers both under MGL 131, Section 40 and local By-laws, topography, street layout and paving, entrances and exits from the property, infrastructure and other improvements with respective dimensions, existing buildings, including floor area and distance from lot lines. The plot plan shall also show the locations of buildings on adjacent properties within 50 feet of the property lines, the names of adjacent streets and property owners. Also included shall be all site detail and engineering necessary to evaluate the proposal and carry out to precise specifications the proposed construction. Said plan shall be drawn to a scale of no less than 1"= 20' and shall contain a locus map drawn to a scale of no less than 1"= 2000'.

5. Plan of Proposed Alteration - The plan shall show scale, north arrow, dimensioned location of all proposed construction and improvements including floor area. If construction is more than one story, front and side elevations must be submitted and floor areas determined for each story.

6. Filing Fee - A check made payable to the "Town of Marshfield" for the appropriate amount of filing fee; a list of the filing fees approved by vote of the ZBA is available in the office of the ZBA or the Building Department.

E. Comprehensive Permit Submission Requirements:

In the case of an application for a comprehensive permit under MGL Chapter 40B, the submission of the following information at the time of the filing is considered as the requirement for legal standing and is mandatory:

1. Developer and Project Eligibility: A project eligibility/site approval letter which states that the applicant is eligible to apply for subsidy and which includes a determination that the developer is qualified to participate in the program, i.e. a public agency, non-profit organization or a limited dividend organization.

2. Site Control: Evidence that the developer has control over the property in question: a copy of the deed, purchase and sale agreement or option agreement.

3. Preliminary Plans: Preliminary site development plans, a “footprint” of the site, a preliminary plan showing scale, all proposed structures including parking, roads, drainage features, open space, building footprints, utilities and infrastructure improvements, and a subdivision of land if applicable.

4. Site Conditions: A report on existing site conditions: a narrative description of existing buildings and character of site.

5. Preliminary Drawings: Preliminary architectural drawings: typical drawings and elevations for each building type.

6. Building Tabulation: A tabulation of proposed buildings: number of buildings, number of units and bedrooms per building, building type.

7. Subdivision Plan: A preliminary subdivision plan if necessary: if a subdivision is part of the proposal; the actual drafting of the plan should conform to the technical standards of the Town.

8. Utilities Plan: An indication of the approximate location of utilities.

9. Requested Exemptions: A list of requested exemptions to local codes, ordinances, bylaws, or regulations, including the zoning bylaws and fees.

10. Filing Fee: A check shall be submitted made payable to the “Town of Marshfield” and shall be in the amount in effect at the time for commercial/business applications. A list of the latest filing fee schedule approved by vote of the ZBA is available in the office of the ZBA and the Building Department.

This list will be considered for legal standing purposes only. Without this checklist of items, the Board will deny the Comprehensive Permit application.

### COMPLETE APPLICATION

A complete application includes all of the items necessary to meet the standing requirement, plus that information required by the Board, which relates to concerns within its jurisdiction. The Board may request, and the applicant must provide, additional information that is necessary for the Board to make its decision.

Additional information that the Board requires for a complete application includes, but is not limited to, the following:

1. Existing Site and Site Area:

Plans showing: The latest recorded plan of the subject property; or if no such plan exists, a plan of the land endorsed by a registered land surveyor. The plan shall show at least the following: scale, north arrow, zoning district, lot dimensions and area, open space, flood plain line, wetland resource areas and buffers under both MGL 131, Section 40, and local Bylaws. Topography, street layout and paving, entrances and exits from the property, infrastructure and other improvements with respective dimensions, existing buildings, including floor area and distance from lot lines. The plan shall also show the locations of buildings on adjacent properties within 50 feet of the property lines and the names of adjacent streets and property owners. Also included shall be all site detail and engineering necessary to evaluate the proposal. Said plan shall be drawn to a scale of no less than 1" = 20' and shall contain a locus map drawn to a scale of no less than 1" = 2000'.

Narrative information: Abutters list; potential alternative site uses under present zoning (as of right, special permit); if available, first level assessment under MGL, chapter 21E; identification of any features of historic or archaeological significance; identification of any significant natural resource or wildlife habitat.

## 2. Proposed Site Development

Plan showing: Scale; all proposed structures including parking, roads, drainage features, open space, building footprints, typical drawings for each housing type; utilities; infrastructure improvements; subdivision of land if applicable.

Narrative Information: Proposed landscaping/buffers; drainage calculations; 21E remedial action, if applicable; housing type and bedroom mix data; project type (HOP vs. SHARP, etc.); project funding application copy (if applicable); financial information for the project; proposed affordable/market rate ratio; project density.

## 3. Project Impacts

Plans and/or narrative information as necessary to show the projects impacts on: Traffic (on site circulation, site entrance and exit, trip generation data, sight and stopping distance, existing and proposed levels of service); loss of historical, archaeological, open space, wildlife habitat, or recreational resources; municipal services, public safety; water supply; sewage disposal and/or wastewater treatment; construction impacts; noise, dust, erosion/siltation, potential releases; wetlands and wetlands protection; infrastructure such as roads, drainage and utilities and plans to utilize municipal facilities such as water, sewer and public road systems; benefits that the project might provide such as contribution to the statutory minimum of 10%, tax revenue, new amenities, etc.

The Board will likely need more information to resolve concerns relating to planning, health, safety etc. Such information as the Board requests will be supplied by the applicant.

## F. Engineering Review Fees

1. When reviewing an application for a special permit, variance, appeal or comprehensive permit, the ZBA may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts. The Board may require that applicants pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

2. In hiring outside consultants, the ZBA 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, ordinances/bylaws, and regulations.

3. Before the start of such review, and within ten (10) days following notice to the applicant that the application has been submitted for independent engineering review, the applicant shall deposit with the Treasurer of the Town of Marshfield funds equal to the full cost of the review. Additional funds shall be deposited in the account within ten (10) days after notice from the ZBA that the amount remaining on deposit is insufficient to cover further engineering reviews required. Funds received by the ZBA pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the ZBA without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the application/permit.

4. Review fees may only be spent for services rendered in connection with the specific project from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a 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. 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 an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

5. Any applicant may take an administrative appeal from the selection of the outside consultant from the amount of the required review fee to be paid to the Marshfield Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications or that the amount of the fee is not reasonable. 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 by the duration of the administrative appeal. In the event that no decision is made by the Marshfield Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

#### C. Waiver of Requirements:

Notwithstanding the foregoing, the ZBA may waive any of the non-statutory provisions of this Article II, or may require additional information as seems necessary. Requests for waivers shall be made in writing at the time of filing.

#### H. Filing of Appeals:

Every appeal shall be filed within thirty days from the date of the order of decision of the Building inspector, Zoning Administrator or other official whose decision is being appealed.

### III HEARINGS

A. Notice

All hearings shall be open to the public. Notice of each hearing shall be published in a newspaper of general circulation in the Town of Marshfield once a week for two consecutive weeks. The first publication shall not be less than 14 days before the day of the hearing. In addition, a copy of the notice shall be posted in a conspicuous place in the Town Office Building for a period of not less than fourteen days before the day of the hearing. A copy of the legal notice shall also be sent by mail, postage prepaid, to all "parties in interest". The notice shall contain the name of the appellant, petitioner, or application; a description of the area of premises, including the street address of the subject property, if any, or other adequate identification of the location thereof; the date, time and place of the public hearing; the subject matter of the hearing; and the nature of action or relief requested, if any.

B. Representation and Absence:

An appellant, petitioner, or applicant may appear in his own behalf or be represented by an agent or attorney. In the absence of any appearance on behalf of an appellant, petitioner, or applicant, the Board may decide on the matter using the information submitted.

C. Order of Business:

1. The Chairman or designated Hearing Officer shall call the hearing to order and read the official notice thereof as published.

2. Fifteen minutes will be allowed for the appellant, petitioner or applicant, or his representative, to present the case to the Board.

3. Representatives of Town Boards shall each be allowed five minutes to comment on the application.

4. Abutters to the property shall each be allowed five minutes to comment on the application.

5. Any other interested parties shall each be allowed five minutes to comment on the application.

6. Ten minutes will be allowed for the appellant, petitioner or applicant or his representative, to respond to matters raised by any opponents.

7. Members of the panel hearing the case may direct appropriate questions during the hearing. The Chairman may extend or reduce any one or more of the above time limits.

D. Brief to the Board:

It is recommended that every appeal, petitioner or application be supported by a brief setting forth in detail all of the pertinent facts. This is particularly desirable in the case of a variance when findings, based on the Zoning bylaw and Chapter 40A, Section 10 of the MGL, must each be specifically made.

B. Withdrawal:

An appeal, petition or application may be withdrawn without prejudice by notice in writing to the Board prior to the publication of the legal notice. After the publication of the notice of the hearing, an application may be withdrawn without prejudice only by request in writing to the Board, and such application of withdrawal without prejudice shall have the unanimous vote of approval by the Board. If the application is withdrawn after publication of the legal notice, the filing fee shall be forfeited.

F. Waiver of Requirements:

Notwithstanding the foregoing, the Board may, in its sole discretion and in public session, waive any of the non-statutory provisions of Article III, or may require additional information as seems necessary.

A. Voting Requirement:

An affirmative vote of four members of the Board shall be necessary in the case of any favorable decision to grant requested relief.

B. Form of Decision:

All decisions shall be made in writing. The written decision shall contain the following:

1. The date the decision was rendered.
2. The name of the appellant, petitioner or applicant.
3. The name and address of the owner, if different from the appellant, petitioner or applicant.
4. The street address, or other identification, of the subject property.
5. The time, date and place of the public hearing.
6. A statement that the hearing was duly held.
7. Description of the relief or action sought.
8. A statement that the appeal, petition or application is denied or granted, in whole or in part; and, if any relief is directed, or action permitted or required, a statement thereof, including any conditions imposed.
9. A statement of the basis for the decision, with specific reference to the applicable provisions of chapter 40A of the MGL and/or the Town of Marshfield Zoning By-Law.

In addition to the foregoing, the written decision may include a brief account of the testimony and evidence presented.

All decisions of the ZBA shall be signed by at least one member of the panel, which heard and voted on the application in question.

C. Legal Record:

Written decisions of the ZBA constitute the legal record of its proceedings.

II. Filing Requirements:

The original copy of the decision, and all plans referenced therein, shall be filed forthwith with the Town Clerk. A copy of the decision shall be issued forthwith to the owner, appellant, petitioner, applicant, or his agent. A copy of the decision, and all plans referenced therein, shall be filed forthwith with the Planning Board.

E. Notice of Decision

A written notice of decision shall be mailed forthwith to the owner, appellant, petitioner or applicant, to the parties in interest, and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. The notice of decision shall be prepared on an approved form adopted for that purpose.

Each notice shall specify that appeals, if any, shall be made pursuant to section 17 of Chapter 40A of the MGL, and must be filed within twenty days after the written decision is filed in the office of the Town Clerk.

F. Town Clerk certification and Recording:

After twenty days have elapsed from the date a decision is filed, an appellant, petitioner, or applicant may ask the Town Clerk to certify on a copy of the decision that no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied. Any relief granted shall not take effect until a certified copy of the decision, with plans if necessary, has been recorded in the Plymouth Registry of Deeds, is indexed in the grantor index under the name of the owner of record, or is recorded and noted on the Owner's Certificate of Title. It is the responsibility of the owner or the appellant, petitioner, or applicant to make and to pay the fee for such recording or registering. The Building Department shall not issue a building permit until proof of recording is presented.

No application which has been unfavorably acted upon by the ZBA shall be acted upon within two years of the date of the decision unless the appellant, petitioner or applicant submits new evidence which substantially alters the conditions of the appeal, petition, or application and requests consent from the Planning Board to reapply to the Board of Appeals. The Planning Board shall give notice to the parties-in-interest regarding the time and place of the proceedings when the question of such consent will be considered. If all but one member of the Planning Board grants consent, the appellant, petitioner or applicant shall submit the new evidence and a new application to the ZBA, which may rehear the matter, after proper notice, if it finds by unanimous vote of the members sitting that there are specific and material changes in the conditions upon which the previous unfavorable action was based. The changes shall be described in the record of the proceedings at which the findings are made.

V MISCELLANEOUS PROVISIONS

A. Advice:

Any statement, advice, opinion or information given by the Board of Appeals or any member thereof, or any statement, opinion or information given by any other official or employee of the Town of Marshfield, shall not be binding by the Board in the proper exercise of its discretionary powers under the Zoning Bylaw.

B. Informal Meetings:

The ZBA will not give preliminary opinions or advice on applications which may be considered by the Board at a future time.

C. Other.

For other policies, regulations or procedures, refer to the Zoning Bylaw of the Town of Marshfield as legally adopted and amended from time to time and to MGL, Chapter 40A.

VI AMENDMENTS

A. Amendment. Revision or Repeal:

These Rules and regulations may be amended, revised or repealed from time to time by a majority vote of the Board of Appeals at a posted meeting. Any amendment, revision or repeal shall become effective upon filing in the office of the Town Clerk.

B. Separability:

If any section, paragraph, sentence, clause or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged and the remainder of these regulations shall be deemed valid and effective.

EXHIBIT 1

Instructions for Applicants:		Form 1
Application for Hearing:		Form 2
Requested Findings of Fact	- Appeal:	Form 2A
Requested Findings of Fact	- Variance:	Form 2B
Requested Findings of Fact	- Special Permit:	Form 2C
Requested Findings of Fact	- Site Plan:	Form 2D
Requested Findings of Fact	- Special Permit/Accessory Apartment:	Form 2E

MARSHFIELD ZONING BOARD OF APPEALS

*\* Signature on file*

---

John J. Mahoney, Chairman

*\* Signature on file*

---

Warren F. Baker, Vice-Chairman

*\* Signature on file*

---

Jon P. Devine

*\* Signature on file*

---

Allen A. Burchell

*\* Signature on file*

---

Richard F. Power

(Adopted by Marshfield ZBA on November 7, 1995)

\* Official signed original on file with Town Clerk's Office and ZBA Office, Town Hall; Marshfield, MA