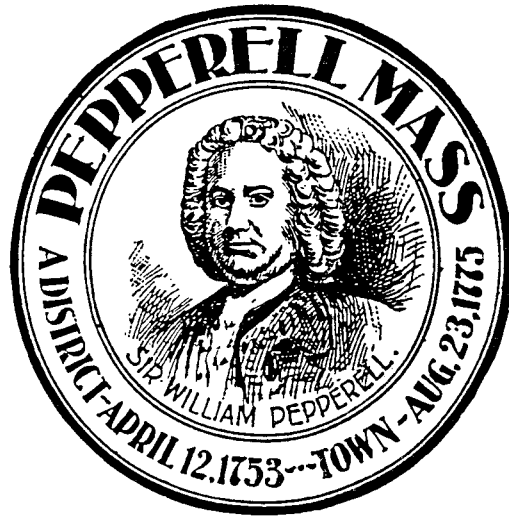


Town of Pepperell, Massachusetts



Planning Board Rules and Regulations for Special Permits and Site Plan Reviews

March 1, 2010

Planning Board
Rules and Regulations
for
Special Permits
and
Site Plan Reviews

Effective March 1, 2010
pursuant to
Mass. General Laws, Ch. 40A, Sec. 9

by the
Planning Board of the Town of Pepperell, Massachusetts

Nicholas Cate, Chair
Stephen Themelis, Clerk
Dennis Kane
Mark Marston
Richard McHugh

Susan Snyder, Planning Administrator

Filed with the Town Clerk March 1, 2010

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1.0. Purpose and Authority.

In accordance with MGL Chapter 40A, Section 9, the Planning Board of the Town of Pepperell hereby adopts the following rules and regulations governing the organization and conduct of the Board and for the purpose of establishing guidelines and procedures to hear and decide applications for which it is empowered to act as the permit granting authority as specified in the Town of Pepperell Zoning Bylaw.

2.0. Organization and Meetings.

2.1. Chairman; powers and duties.

The Chairman shall vote and be recorded on all special permits coming before the Board. It shall be the duty of the Chairman to designate the Associate Member to sit on the Board to act upon specific special permit applications when the Board's ability to act is limited as in the case of a member's absence or conflict of interest on the part of any member, in the event of vacancy on the Board or other reason creating an inability to act on the part of a member. Subject to these rules, the Chairman shall decide all points of order, unless overruled by a majority of the Board in session at the time and shall appoint such committees as may be found necessary or desirable on special permit related matters.

2.2. Clerk. The Clerk shall be a member of the Board, designated by the Board. Subject to the direction of the Board, the Clerk shall supervise all of the clerical work of the Board regarding special permits. In the absence of the Chairman, the Clerk shall act as Chairman.

2.3. Associate Member. An Associate Member shall be annually appointed within thirty (30) days of the first Planning Board meeting in May at a joint meeting of the Planning Board and Board of Selectmen by majority vote of the members present at this meeting. The Associate shall be called by the Chairman to act upon special permit applications in the case of absence, inability to act or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board. The Associate shall sit as a member of the Board at the public hearing, including any continuances; shall participate in any and all discussions of the application and decision; and shall be recorded on all votes on any special permit upon which the Associate was called to act.

2.4. Assistant to the Planning Board. The Assistant to the Planning Board, if one is appointed by the Board, shall not be a member of the Board and shall, subject to the direction of the Board and the procedures stated herein, process all applications submitted to the Planning Board for action, to include referring applications for comment, preparing and sending hearing notices, taking hearing and meeting minutes, drafting decisions and notifying petitioners and parties in interest of the decision. The Assistant shall certify the date on which decisions are filed with the Town Clerk.

2.5. Quorum. Three (3) members must be present to open any meeting of the Planning Board and shall be required to conduct any general business. Four (4) members or three (3) members plus the Associate Member must be present for the opening of any public hearing. In the event only four (4) members are present at a public hearing, an applicant

may insist upon being heard by the full five (5) member board and may request a continuance of the hearing to a date certain for this purpose.

- 2.6. Meetings. All meetings of the Planning Board shall be held in accordance with the provisions of the Massachusetts Open Meeting Law and a meeting schedule shall be filed with the Town Clerk. A site visit for the purpose of inspection of a subject property shall not be deemed a meeting but shall be posted with the Town Clerk.
- 2.7. Public Hearings. A public hearing shall be held on each application no later than sixty-five (65) days from the date of the filing of the application with the Town Clerk. Notice of the hearing shall be posted in Town Hall and in a local newspaper at least fourteen (14) days prior to the date of the hearing. A quorum, as defined above, must be present for the public hearing. In the event a member misses one public hearing in a series of public hearings on a Special Permit, he/she may complete an affidavit pursuant to MGL Chapter 39, Section 23D that a hearing was missed and all evidence provided at the missed hearing has been reviewed. This may only be done in the case of one (1) missed hearing.

3.0. Applications for Special Permits.

Prior to filing an application for a Special Permit, applicants are encouraged to schedule a meeting with the Planning Board to discuss the project informally. This preliminary review will attempt to avoid unnecessary deficiencies in the application being filed and to promote efficiency in the public hearing process.

- 3.1. Application Form. Every application for action by the Board shall be made on the official forms included in these regulations. These forms may be obtained in the Planning Board office or from the Town Clerk upon request. Any communication purporting to be an application shall not be treated as such nor accepted by the Town Clerk for filing until such time as it is made on the official application form, certified parties in interest form and Appendix A cross reference form. All information called for by the forms shall be furnished by the applicant in the manner prescribed.
- 3.2. Plans for Projects. Each application shall be accompanied by a plan. Plans larger than 11" x 17" shall have at least two copies provided in the original size. Plans shall show the information required as listed and described in Appendix A. Appendix A shall be cross referenced with the plans and submitted as part of the application.
- 3.3. Number of Copies. The original application, plan, and any supplemental information as required plus 15 copies shall be submitted to the Planning Board during regular business hours or at a scheduled meeting. An additional copy shall be submitted to the Town Clerk during regular business hours and the date received by the Town Clerk shall be the effective date of the submittal.
- 3.4. Waiver of Plan Requirement. Strict compliance with the plan requirements in these rules and regulations may be waived, when, in the judgment of a quorum of the Planning Board, such action is in the public interest and not inconsistent with the intent of these regulations. The applicant shall submit a list of all waivers requested on the form provided at the end of these regulations, which list the applicant may later amend at the public hearing and which list the board will act on at the public hearing.

- 3.5. Brief to the Board. It is recommended that every application for a special permit be supported by a brief narrative setting forth in detail the facts of the request.
- 3.6. Filing Fees. Application filing fees shall be in accordance with the most recent Fee Schedule set forth and published by the Planning Board and shall be submitted with the application to the Planning Board.
- 3.7. Additional Review and/or Inspection Fees. The Planning Board may engage, at the applicant's expense, professional consultants, i.e., engineers, planners, lawyers, urban designers, Town Officials, or other appropriate professionals, to assist the Board in review or inspection of a project for compliance with all applicable laws, regulations, and conditions. The Planning Board shall notify the applicant of its selection of a consultant(s) and shall provide the applicant with an estimated cost of services. The applicant in turn shall submit a payment to the Town of Pepperell and any funds received for this purpose shall be deposited with the Treasurer and an escrow account shall be established.

Failure of an applicant to submit the requested payment to the Town of Pepperell shall be grounds for denial of the Special Permit. If unexpected costs should arise and the balance in the escrow account falls below 25% of the remaining estimated cost of services, the Planning Board may require additional deposits be made to the escrow account to cover the remaining costs.

Expenditures from the escrow account shall be made at the direction of the Planning Board, without further appropriation, upon receipt and approval of an invoice for services rendered. Funds may only be spent on services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the project, any excess funds in the escrow account, including interest, shall be refunded 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.

The applicant may appeal the selection of the consultant(s) to the Board of Selectmen within fourteen (14) days of notification by the Planning Board of their selection of a consultant(s). The grounds for such an appeal shall be limited to claims that the consultant(s) selected has a conflict of interest or does not possess the minimum required qualifications, as specified in MGL Chapter 44, Section 53G.

4.0. Procedures.

- 4.1. Filing. All applications shall be filed with the Planning Board together with the list of parties in interest certified by the Board of Assessors, the plans, Appendix A, and the filing fee. An additional copy shall be submitted to the Town Clerk during regular business hours and the date received by the Town Clerk shall be the effective date of the submittal.
- 4.2. Referral. Upon receipt of an application, the Planning Board shall, within 14 days, refer the application to other boards and officials as it deems advisable and shall not hold a public hearing on the application until such time as reports have been received from all boards and officials to whom the application has been referred or 35 days have elapsed following referral without receipt of such reports, whichever occurs sooner. Failure of

any such board or official to submit a report within thirty-five (35) days of receipt of the referral shall be deemed by the Planning Board as a lack of opposition thereto.

4.3. Public Hearing Notice. A notice of the public hearing to be held on each application shall be advertised as required by the provisions of M.G.L., Chapter 40A, Section 11, once in each of two successive weeks and not less than fourteen (14) days prior to the hearing date in a newspaper of general local circulation, posted in Town Hall and filed with the Town Clerk. Notices shall contain the name of the applicant, a description of the area or premises, street address, if any, or other adequate identification of the location of the area or premises which is the subject of the petition, 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. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in town. A copy of the advertised notice shall be sent by mail, at least seven (7) days prior to the date of the hearing, postage prepaid, to the applicant, the owner of the property, the parties in interest as certified by the Board of Assessors, and the Planning Boards of Groton, Townsend, and Dunstable, Massachusetts and Brookline, Nashua and Hollis, New Hampshire.

4.4. Public Hearing.

4.4.1. A public hearing shall be held on each application no later than 65 days from the submittal date of a complete application but no earlier than thirty-five (35) days from the date of referral to other boards and officials.

4.4.2. All hearings shall be open to the public. No person shall be excluded unless he/she is considered by the Chairman to be a "serious hindrance" to the conduct of the hearing.

4.4.3. An applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the Board may decide on the matter using the information it has received.

4.4.4. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the Planning Board to a date certain. A copy of such agreement shall be filed in the office of the Town Clerk.

4.4.5. The order of business for a public hearing shall be as follows:

- a. Chairman opens hearing
- b. Clerk reads public notice of hearing
- c. Chairman announces purpose, order and conduct of hearing and presents any exhibits and written briefs.
- d. Applicant's presentation.
- e. Clerk reads official comments received.
- f. Questions from the Planning Board members appropriate to the issues of the case.
- g. Comments from those in attendance at the hearing wishing to speak on the application.
- h. Applicant's rebuttal, restricted to matters previously raised.
- i. Board determination on waivers requested.

- j. Additional comments or questions.
- k. Board discussion, continuance agreement and motions.
- l. Adjournment.

4.4.6. Conduct for speakers at a public hearing shall be as follows:

- a. Each person must identify self.
- b. Each person may speak only once.
- c. All comments and questions must be addressed to the Planning Board and in the case of questions, they will be noted by the Planning Board which will determine those which it finds pertinent to the petition and will then ask for those answers from the petitioner.
- d. The Planning Board Chairman may limit repetitive comments.

4.4.7. A public hearing shall either be closed or continued to a date and time specific. Once the public hearing has been closed no further information shall be considered and deliberations leading to a decision may begin.

4.5. Disposition by Board.

4.5.1. Decision. The Planning Board shall offer a written decision within ninety (90) days of the close of the public hearing. The written decision shall include specific findings based on applicable criteria of these rules and regulations and the Zoning Bylaw. The written decision shall indicate an approval or denial of the application. Any approval of an application may include conditions or restrictions necessary to ensure compliance with the Zoning Bylaw. A denial of an application shall be based on a finding of insufficient information or determination that the project does not meet the applicable requirements of the Zoning Bylaw.

4.5.2. Voting Requirements. The affirmative vote of at least four (4) members or three (3) members and the Associate Member shall be necessary to issue a special permit. The members who make the decision on a petition shall be the same members who attended the public hearing on the petition.

4.5.3. Withdrawal. An application may be withdrawn without prejudice by notice in writing to the Town Clerk, with a copy submitted to the Planning Board, at any time prior to the publication of the notice of the public hearing. Requests to withdraw after the publication date of the notice may be granted only by permission of a majority of the Planning Board.

4.5.4. Appeals. Any person aggrieved by a decision of the Planning Board as Special Permit Granting Authority may appeal such decision as provided in MGL Chapter 40A, Section 17 within twenty (20) days after such decision has been filed in the office of the Town Clerk.

4.5.5. Reapplication. No application which has been unfavorably and finally acted upon by the Planning Board shall be reconsidered for a Special Permit within two (2) years after the date of the said final unfavorable action, unless the Board finds, by a vote of four (4) members, specific and material changes in the condition upon which the previous unfavorable action was based and such

changes are described in the record of its proceedings, and after notice is hereby given to parties in interest of the time and place of the proceedings to reconsider in the same manner as provided for in Section 4.3 of these rules and regulations.

- 4.5.6. Lapse of Special Permit. Special Permits shall lapse within two (2) years from the date of the board's decision, excluding any time required to pursue or await the determination of an appeal under MGL Chapter 40A, Section 17, if a substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun by such date except for good cause.
- 4.5.7 Extension of Special Permit. Approval in all cases is granted for a period of two (2) years from the date of the filing of such approval with the Town Clerk. If substantial use thereof or construction has not begun by such date a written request for extension of approval may be submitted to the Planning Board for consideration no later than sixty (60) days prior to the lapse of the Special Permit. A filing fee in accordance with the Fee Schedule shall accompany all requests for extension. The Board shall consider requests of one (1) year extensions and in no case shall consider requests for more than a two (2) year extension of a Special Permit.
- 4.5.7. Amendment of Conditions. The conditions of approval in a Special Permit which has been granted by the Planning Board may be amended by filing an application in accordance with these rules and regulations and shall be acted upon by the Board in the same manner as outlined in these rules and regulations for all special permit applications.
- 4.5.8. Lack of Decision. Failure of the Planning Board to take final action within said ninety (90) days or extended time, if applicable, shall be deemed to be a grant of the special permit. The petitioner, who seeks such approval by reason of the failure of the board to act within such time prescribed, shall notify the Town Clerk, in writing within fourteen (14) days from the expiration of said ninety (90) days or extended time, if applicable, of such approval and that notice has been sent by the petitioner to parties in interest. The petitioner shall send such notice to parties in interest by mail and each such notice shall specify the appeals, if any, shall be made pursuant to MGL Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the petitioner that the Planning Board failed to act within the time prescribed.
- 4.5.9. Effective Date of Special Permit. No special permit, or any extension, modification or renewal thereof, shall take effect until the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for Middlesex South District and 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 and a copy with the recording date is filed with the Town Clerk.

4.5.10. Distribution. The Notice of Decision and Decision shall be filed with the Town Clerk and mailed to the Applicant within ninety (90) days of the close of the public hearing, unless extended by written agreement with the applicant and said agreement has been filed with the Town Clerk. A copy of the Decision shall be mailed to the owner of the subject property, if different from the applicant and distributed to the Building Inspector, Board of Assessors, Town Engineer, Department of Public Works Water, Sewer and Highway divisions, and Conservation Commission, if applicable. A copy of the Notice of Decision shall be provided to the Board of Health, Fire Department, Police Department, Communications Department, the abutting towns, and the parties in interest.

5.0. Administration.

- 5.1. Validity. In the event of a conflict between the provisions of these Rules and Regulations and the provisions of the Massachusetts Zoning Act and the Town of Pepperell Zoning Bylaw, the provisions of the Massachusetts Zoning Act and the Town of Pepperell Zoning Bylaw shall apply.
- 5.2. Amendment of Regulations. The Planning Board may from time to time amend these Rules and Regulations by an affirmative vote of a majority of the board provided that such amendment shall be presented in writing at a regular meeting. A true copy of these rules and regulations together with their most recent amendments shall be filed in the office of the Town Clerk and available for inspection in the office of the Planning Board.

6.0. Site Plan Review.

Applications for Site Plan Review shall be processed by the Planning Board in the same manner as a Special Permit application as specified in Sections 3 and 4 above.

- 6.1. Preliminary review. Site Plan Review applicants are encouraged to meet with the Planning Board to discuss preliminary plans for their project. This preliminary discussion will enable the applicant and the Planning Board to explore any problems. The applicant is also encouraged to submit a list of the waivers which may be requested with the special permit application.
- 6.2. Combined application. When a Special Permit under the Table of Use Regulations or other Section of the Zoning Bylaw is required for the proposed Site Plan Review application, the applicant may submit a combined application and a joint public hearing to address the Special Permit and Site Plan Review shall be held.
- 6.3 Design Criteria.
 - a. The proposal, with consideration given to waivers granted, shall comply with all requirements of these Rules and Regulations and with applicable zoning requirements for parking, service areas, environmental performance standards, and any other applicable sections of the Zoning Bylaw;
 - b. The development shall be integrated into the existing terrain and surrounding landscape and be designed to preserve natural and historic features, to minimize

tree, vegetation and soil removal, to minimize grade changes and to screen objectionable features from neighboring properties;

- c. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood;
- d. The project shall be served by an adequate water supply and waste disposal system as determined by the appropriate regulatory agencies;
- e. The plans shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways with the traffic flow pattern showing adequate access to and from the site and adequate circulation within the site;
- f. The plans and documents shall show adequate measures to prevent pollution of surface water or groundwater, prevent erosion, sedimentation, changes in groundwater levels, increased run-off, or flooding, and that the drainage design will not adversely affect neighboring properties.
- g. The project will not place excessive demands on Town services and infrastructure.

6.4 Contents. All site plans shall be prepared by a registered professional civil engineer and/or registered land surveyor. In certain cases, when, in the judgment of the Planning Board, a project, because of location, size, or other simple circumstances will have limited impact on the public interest, the Planning Board may, by majority vote, waive strict compliance with the requirements when such action is not inconsistent with the intent and purpose of this section. The Planning Board shall set forth the waivers it grants in the Site Plan Review Decision. In addition to the plan requirements of Appendix A, the following shall either be shown on the site plan or contained in a document accompanying the application:

- a. Site layout which shall contain the boundaries of the lot(s) in the proposed development, existing and proposed topography including contours, the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding, dimensions and elevations of existing and/or proposed structures, drives, signs, loading docks, parking and snow storage area(s);
- b. Location and description of all utilities which shall include all facilities for sewage disposal, water, waste disposal with methods of disposal documented, storage areas, hydrants, fire alarm and fire fighting facilities. All utilities shall be underground where physically and environmentally feasible;
- c. Existing and proposed landscape features and screening, including but not limited to the location and description of unique, natural land features, trees, fencing, walls and other plantings, open space or recreational facilities;
- d. Location, type, height, intensity and bulb type of external lighting as well as the direction of illumination and methods to eliminate glare onto adjoining properties;
- e. Traffic flow patterns within the site, entrances, and exits. A detailed traffic study is required which shall include the projected number of motor vehicle trips to enter or

leave the site, estimated for daily and peak hour traffic levels, the projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site, the impact of this traffic upon existing abutting public ways in relation to existing road capacities with existing and proposed daily and peak hour traffic levels as well as road capacity levels as part of the report;

- f. A table containing the following information must be included: floor area of the building for each particular use, maximum number of employees, maximum seating capacity, if applicable, and number of parking spaces existing and required for the intended use including handicap spaces;
- g. Hydrogeological information including any soil logs, percolation test results, impact on groundwater, and storm water run-off calculations. Drainage calculations shall be performed by a registered professional civil engineer and shall conform to the Town of Pepperell Planning Board Rules and Regulations Governing the Subdivision of Land;
- h. Identify and evaluate potential impact on quality of air, water supply services, waste disposal systems, surface water, wetlands, groundwater, flooding, erosion, sedimentation, hazards from radiological emissions or hazardous materials, temperature, wind conditions and noise or odor conditions on the site and on adjacent properties;
- i. Projections of costs arising from increased demands for public services and infrastructure, benefits from increased tax revenues, employment, value of public infrastructure to be provided.
- j. Location of loading areas, walkways, driveways and fire fighting facilities within a 200 foot radius of the subject driveway;
- k. Evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character, intensity of use, major design elements and identification of impacts on significant historic properties with a drawing showing the entire project and its relation to the existing area.

APPENDIX A

APPLICATION REQUIREMENTS AND CROSS-REFERENCE NOTATION

Each application to the Board shall be accompanied by a plan showing the following listed items.
Please use this list, mark the correct column and submit with your application.

	PLAN REQUIREMENTS	ON PLAN	N/A
1.	North point, date, and scale		
2.	Name and address of record owner & applicant		
3.	Complete property lines of the entire lot		
4.	All public ways abutting the property lines		
5.	Zoning District in which the property lies		
6.	Locus showing property lines of all parcels w/in 300 ft		
7.	Assessors' Tax Map and Lot number(s)		
8.	Any public or common areas within the property or on abutting properties		
9.	Existing recorded variances and/or special permits on the subject property or any abutting property		
10.	Location and size of all existing and proposed buildings, septic systems, and private wells on the subject property and abutting properties		
11.	Base Flood Elevation on the property		
12.	Easements, existing or proposed		
13.	Utilities, including but not limited to, water, sewer, telephone, electrical, natural gas, or cable T.V.		
14.	Existing and proposed stormwater systems, including but not limited to, open ditches, natural waterways, water bodies, and underground piping and culverts		
15.	Topography in 2 ft contour intervals		
16.	Parking and/or driveway areas		
17.	Soil types, per USSCS detailed soil maps (1974)		
18.	Certification of a Registered Professional Civil Engineer		
19.	Seal of registration, signature, name and address of the Land Surveyor registered in Massachusetts who prepared this plan		
20.	Certification by a registered civil engineer and/or land surveyor that each lot contains at least eighty thousand (80,000) square feet of land exclusive of surface waters and flood hazard areas as defined in the Pepperell Zoning Bylaw.		



REQUEST FOR WAIVERS

Date:

Planning Board
Town Hall
Pepperell, MA 01463

Dear Members:

I request the waivers to the plan requirements in Appendix A as listed below along with the reasons for such request.

Signature of Applicant

Waiver to Requirement # _____ because _____

Waiver to Requirement # _____ because _____

Waiver to Requirement # _____ because _____

Waiver to Requirement # _____ because _____



APPLICATION AND REQUEST FOR PUBLIC HEARING

In accordance with the requirements of the Town of Pepperell Protective Zoning Bylaws and the Planning Board Rules and Regulations, the undersigned hereby makes application to the Planning Board of the Town of Pepperell and requests a Public Hearing in connection therewith:

1. Date: _____
2. Name of Applicant: _____ Phone: _____
Address: _____
3. Name of Owner (if other than Applicant): _____
Address: _____
4. Name of Surveyor/Engineer: _____
Address: _____
5. Property Address: _____
Assessors' ID: Map _____ Parcel/Lot _____
Zoning District: _____
Deed of Property: Book _____ Page _____
6. Purpose: *(Please provide a brief description of request)* _____

7. Applicable Section of the Protective Zoning Bylaw: _____

SIGNATURE OF APPLICANT

SIGNATURE OF OWNER (if other than applicant)

RECEIVED BY THE PLANNING BOARD:
Fee: _____ Date: _____

RECEIVED BY THE TOWN CLERK:
Date: _____