



**Special Permit Rules and Regulations**

# TOWN OF WARREN Planning Board

## Rules and Regulations



Adopted: November 10, 1993

Amended: October 13, 1999  
November 1, 2008

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## Introduction

The purpose of this set of Rules and Regulations is to assist Board and Committee members and members of the public to better understand the procedures and requirements of the Warren Planning Board. These Rules and Regulations incorporate the directions and requirements that are found in state and local laws, and the zoning by-laws of the Town of Warren.

In cases where the Massachusetts General Laws are cited, the reader may want to refer to the Massachusetts General Laws to determine if any changes have been made. The Planning Board will be diligent in keeping these regulations revised and up to date, but changes in the Massachusetts General Laws will supercede these regulations.

These Rules and Regulations are adopted by the Warren Planning Board under the authority of and in compliance with the General Laws of the Commonwealth of Massachusetts and the Zoning By-laws of the Town of Warren.

## **ARTICLE I - ORGANIZATION**

### **SECTION 1 - MEMBERS AND OFFICERS**

The Planning Board shall consist of five (5) elected members. The members of the Board shall elect all officers of the Planning Board to include a Chairperson, Vice-Chairperson, Clerk and Treasurer.

### **SECTION 2 - THE CHAIRPERSON: POWERS AND DUTIES**

The Chairperson shall vote and be recorded on all matters coming before the Board. Subject to these rules, the Chairperson shall decide all points of order, unless overruled by a majority of the Board in session at the time. The Chairperson shall appoint such committees as may be found necessary or desirable.

In addition to the powers granted by the General Laws of the Commonwealth of Massachusetts and the Zoning By-laws of the Town of Warren and subject to these rules and further instructions of the Board, the Chairperson shall transact the official business of the Board, supervise the work of the Clerk, request necessary help, direct the general work of the Board, and exercise general supervisory power. The Chairperson shall, at each meeting, report the official transactions that have not otherwise come to the attention of the Board.

**SECTION 3 - THE VICE CHAIRPERSON: POWERS AND DUTIES**

The Vice-Chairperson shall act as Chairperson in the case of the Chairperson's absence. If both the Chairperson and Vice-Chairperson are absent, the Clerk shall act as a Chairperson and appoint an Acting Clerk.

**SECTION 4 - CLERK: POWERS AND DUTIES**

The clerk shall be a member of the Board and shall, subject to review by the Board and its Chairperson, supervise all of the clerical work of the board including: all correspondence of the Board, sending of all notices required by law, preparation of rules and offers of the Board, receipt and review of all applications for compliance with the rules of the Board, keeping of dockets and minutes of the Board's proceedings, compilation of all required records, maintenance of necessary files and indexes, and calling of the roll at all Board meetings. If the Clerk is absent, the Chairperson shall appoint an Acting Clerk.

**SECTION 5 - TREASURER**

The Treasurer shall be a member of the Board and shall, subject to review by the Board and the Chairperson, receive and transmit to the Town Treasurer all funds collected by the Board and review bills to be paid by the Board with the recommendations as to their validity and completeness, and transmit to the Town Accountant appropriate form and evidence necessary for the proper payment thereof.

**SECTION 6 - SECRETARY**

Secretarial position providing support for the Planning Board. Secretary uses the computer to set up and maintain office records and other correspondence, as requested. Keep all records/files updated and keep all archived files organized. Secretary must take and type minutes of each meeting. Minutes are to be submitted to the Town Clerk. Perform bulk mailings consisting of: Certified mailings for Abutter's lists and mailing using an "Affidavit as to time of sending Public Hearing Notices".

**SECTION 7 - VOTING AND QUORUM**

In the Town of Warren, the Planning Board is the Special Permit Granting Authority. Action on a Special Permit shall require a vote of at least four members on the five member Board. Approval of a Special Permit requires at least 4 affirmative votes. (M.G.L., c40A §9). Three members shall constitute a quorum at a regular meeting.

**SECTION 8 - REGULAR MEETINGS**

The Board shall determine the date and time for regular meetings at the start of each year. Regular meetings shall be open to the public in accordance with M.G.L., c39. Notice relative to said meetings shall be filed with the Town Clerk and compliance with said M.G.L., c49. Regular meetings, while open to the public, are not public hearings. The Board will seek information or testimony, as it deems necessary. Unsolicited comments from the public may, at the discretion of the Chairperson, be ruled out of order.

**SECTION 9 - SPECIAL MEETINGS**

Special meetings may be called by the Chairperson, or at the request of two members. Notices relative to special meetings shall comply with all notice requirements of M.G.L., c39.

**SECTION 10 - ZONING AMENDMENTS**

The majority of the entire membership of the Planning Board should concur on a report regarding proposed adoption or amendment of a zoning by-law or ordinance. No zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a two-thirds vote of a Town Meeting. (M.G.L., c40A §5)

**SECTION 11 - SUBDIVISION APPROVAL**

Subdivision Approval requires approval by the majority of the entire membership of the Planning Board. (M.G.L., c41 §81)

**ARTICLE II**  
**SPECIAL PERMITS**

**SECTION 1 - GOVERNING LAWS**

The Town of Warren Zoning By-laws provides for uses, which may be permitted in specified districts only upon the issuance of a Special Permit. The Planning Board is the Special Permit Granting Authority (SPGA).

Special Permits in Warren are governed by M.G.L., c.40A §9 and the Town of Warren Zoning By-laws §3 and §5.

## **SECTION 2 - SUBMISSION**

Every application for action by the Board for petitions for a Special Permit shall be reviewed by the Inspector of Building Inspector/Zoning Enforcement Officer.

Once reviewed by the Building Inspector/Zoning Enforcement Officer and a determination is made that a Special Permit is required, a Rejection is issued.

The Applicant/Agent shall submit the Rejection to the Town Clerk along with two copies of all plans and supporting documentation. The Town Clerk shall furnish the Applicant and or Agent with a Special Permit Application. The Town Clerk shall certify the date and time of filing on the Application and return one copy of the form to the Applicant/Agent. The Town Clerk shall forward a second copy of the Special Permit Application, including any plans/documents, to the Planning Board.

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Any communication purporting to be an application shall be treated as merely advisory and no notice shall be deemed to have been given, until such time as it is made on the official application form and filed with the Town Clerk. Information called for by the form shall be furnished by the Applicant and or their Agent in the manner therein prescribed. The Applicant/Agent shall forthwith submit the following materials to the Planning Board:

- The Special Permit Application Form certified by the Town Clerk
- Nine (9) copies of all plans and supporting documentation.

The certified date by the Town Clerk shall be considered to be the date on which the application has been filed with the Planning Board. It shall be the responsibility of the Applicant or their Agent to furnish all supporting documentations as required.

## **SECTION 3 - PLAN OF LAND TO ACCOMPANY PETITION**

The Applicant and or their Agent carries the legal burden to make a true and complete presentation of the application, to offer evidence on each of the pertinent requirements required for approval and to provide all the relevant facts and documents necessary to a fair presentation of the issues for a decision by the Board.

Nine (9) copies of the following described plan shall accompany each application and petition to the Board, which shall include the following information.

- The plan shall be a stamped and signed surveyors plan. The size of plan shall be 11" x 17" drawn to scale. Scale shall be 1" = 20'
- Features to be indicated on plan:
  - North indicator
  - Zoning district (s)
  - Names of Streets
  - Location of existing structure(s) on land if any
  - Dimensions from all structures to the lot lines
  - Dimensions of all property lines
  - Location and dimensions of all driveways, sidewalks, parking, wells and leach fields (where applicable)
  - Wetlands (where applicable)
  - Location of existing structures on abutting properties
  - Title of Plan
  - Date of Plan
- Cluster, Multi-Family Dwelling, Commercial Developments shall also include the following:
  - In addition to the above-mentioned features, plans for major projects must show detailed utilities and topographic information.

Photographs and letters of support from abutting property owners may be submitted.

The Board shall have the authority to alter or waive any requirements as it deems necessary or appropriate in particular cases.

## **ARTICLE III - HEARINGS**

### **SECTION 1 - NOTICE**

Notice of the Public Hearing shall be advertised as required by M.G.L., c40A, §11. The notice shall contain the name and address of the Applicant, a description of the area or premises and street address or other identification of the property that is subject to the request. The notice shall also include the date, time and location of where the Public Hearing is to be held in addition to the subject matter in which the request is sought. At the same time, a copy of the advertised notice shall be sent by mail, postage prepaid, so that the postmark date is at least fourteen (14) days prior to the date of the hearing, to all parties in interest including the petitioner, property owner (if different than applicant), abutters, owners of land within 300 feet of the property lines, all as they appear on the most applicable tax list and the Planning Board of every abutting city or town.

## **SECTION 2 - VIEWING**

Depending on the nature of the Special Permit request, it may be necessary for the Planning Board to view the property to which is the subject matter. Applicants should be prepared to meet with the Board at the site.

## **SECTION 3 - HEARINGS TO BE PUBLIC**

All hearings shall be open to the public. No person shall be excluded unless that person is found to be, during the course of the hearing, a "serious hindrance" by way of causing distractions that may negate the workings of the Board.

## **SECTION 4 - REPRESENTATION AND ABSENCE**

An Applicant may appear individually or be represented by an Agent or Attorney. In the absence of any appearance by an applicant, the Board shall decide on the matter using the information, it has otherwise received, or it may declare the petition to be withdrawn without prejudice.

## **SECTION 5 - ORDER OF BUSINESS**

- Explanation of procedures by the Chairperson or his designee;
- Applicant's presentation;
- Comments from the public, if any, and questions by those seeking information;
- Applicants' response, if any;
- Steps b-d will be repeated for each application presented to the Board. The Board may vote prior to any hearing to set time limits on an Applicant's presentation of public comments.

Members of the Board who are hearing the case may ask appropriate questions during the hearing.

## **SECTION 6 - WRITTEN MEMORANDUM**

It is recommended that an application for a Special Permit be supported by a legible written memorandum prepared by the Applicant or the Applicant's agent setting forth in detail all facts relied upon. A memorandum may be filed at the Public Hearing or within such time thereafter as may be fixed by the Board.

**SECTION 7 - PERIOD FOR ACTION**

As described in M.G.L., c.40A §9 and reiterated in the Town of Warren Zoning By-law §5, the Board shall hold a Public Hearing within 65 days of the application being filed with the Town Clerk and shall render a decision within 90 days following the close of the Public Hearing. Extensions of the period for action are possible, as described in the law.

**ARTICLE IV- DISPOSITION BY THE BOARD**

**SECTION 1 - DECISION**

A decision on any hearing shall be filed with the Town Clerk within the time limits established by Chapter 40A of the General Laws of Massachusetts.

**SECTION 2 - VOTING REQUIREMENTS**

The concurring vote of four (4) members of the Board shall be necessary in the granting of a Special Permit.

The record shall show the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The Board shall, in addition, set forth clearly the reasons for its decision.

**SECTION 3 - WITHDRAWAL**

An application may be withdrawn by notice in writing to the Planning Board Office at any time prior to the publication of the public notice. A request to withdraw after notification has been made may be granted in accordance with M.G.L., c40A, § 16.

**SECTION 4 - LIMITATIONS ON GRANTS; EXTENSIONS**

In the case of Special Permits, a two-year deadline from the date of granting the permit shall apply. These deadlines can be altered as a condition for the Special Permit. Reasonable extension of said time may be granted by the Board in the case of an appeal to the Superior Court under General Laws, Chapter 40A, §17, or for other good cause shown.

**ARTICLE V - POLICIES AND ADVICE**

Any advice, opinion or information given by any Board member or any other official or employee of the Town of Warren shall not be binding on the Board.

## **ARTICLE VI- SUSPENSION OF RULES**

The Board may vote to suspend any of these rules upon concurrence of four out of five Board members concurring with said motion.

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## **ARTICLE VII - ADOPTION**

The Planning Board hereby adopts the foregoing Rules and Regulations this 1<sup>st</sup> day of November 2008. All former rules of the Board are hereby repealed.

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H. William Ramsey; Chairman

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Marc W. Richard; Vice-Chairman

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Susan A. Libby

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Steven A. Moorhouse

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Peter H. Krawczyk

