

RULES AND REGULATIONS OF THE GROVELAND PLANNING BOARD AS SPECIAL PERMIT GRANTING AUTHORITY PURSUANT TO VARIOUS SECTIONS OF THE GROVELAND ZONING BYLAW AND GROVELAND GENERAL BYLAW

1. GENERAL PROVISIONS

1.1. PURPOSE AND AUTHORITY

These Rules and Regulations are adopted by the Groveland Planning Board, hereinafter called the Board, as the Special Permit Granting Authority (SPGA) as provided for in M.G.L. Chapter 40A for the purpose of establishing uniform rules and procedures for the granting of special permits pursuant to various sections of the Zoning Bylaw of the Town of Groveland (Zoning Bylaw), as may be amended from time to time. Applicants must comply with any and all other requirements and procedures set forth in the Zoning Bylaw in addition to those specified in these Rules and Regulations.

These Rules and Regulations apply to all of the following applications for Planning Board special permits as set forth in the Zoning Bylaw:

Special Permit, including the following:

- Aquifer Protection Overlay District pursuant to Section 6.2.
- Reduction in Parking Requirements pursuant to Section 9.4.
- Inclusion of Affordable Housing pursuant to Section 10.1
- Conservation Subdivision Design (CSD) pursuant to Section 10.2.
- Planned Unit Development (PUD) pursuant to Section 10.3

Other Permits:

- Site Plan Approval pursuant to Section 13.
- Stormwater Management & Land Disturbance pursuant to Article 14 under the Groveland General Bylaw.

1.2. APPLICABILITY

A property owner of record and/ or an agent or prospective purchaser who submits certification of property interest and authority to file may file an Application for a Special Permit. Without exception, the property owner(s) of record and/or agent(s) or prospective purchaser(s) shall be a signatory on the official Application Form. An application submitted without all the required signatures shall be considered failure to submit an application and shall be returned for completion and refileing. The date of such refileing shall be the official date of application.

1.3. ADOPTION AND AMENDMENT

These Rules and Regulations may be adopted and from time to time amended by majority vote of the Board. None of the provisions of these regulations is intended to conflict with the provisions of the

Massachusetts General Laws, the Groveland Zoning Bylaw or Groveland General Bylaw. In the case of any conflict, the General Laws, Zoning Bylaw and General Bylaw shall take precedence over these regulations.

1.4. EFFECTIVE DATE

These Rules and Regulations become effective when voted on affirmatively by a majority of the Board and filed with the Office of the Town Clerk.

1.5. DEFINITION OF TERMS

All capitalized terms used in these Rules and Regulations which are not specifically defined herein shall be construed in accordance with Section 2 [Definitions] of the Town of Groveland Zoning Bylaw and Section 14.3 of the Groveland General Bylaw.

2. PRELIMINARY REVIEW

2.1. PRELIMINARY STAFF CONSULTATION

It is recommended that an Applicant consult with the Town Planner prior to the formal application filing to prevent serious delays in the review of the application due to procedural or substantive issues. It is the sole responsibility of the Applicant to ensure that the application as filed is complete and accurate according to these Rules and Regulations and the Zoning Bylaw. If any other approvals or special permits are required from the Board for the project, then these should be discussed with the staff at this time. Any information exchanged as part of this preliminary staff consultation shall be considered as advisory and shall not be binding on the part of the Applicant or Board.

2.2. TECHNICAL REVIEW CONFERENCE

The Applicant may request a Technical Review Conference to perform a preliminary staff review of the proposed application in an effort to identify salient issues and the regulatory framework applicable to the proposed project. The Technical Review Conference is comprised of the Town Planner/Zoning Administrator, Building Commissioner, Conservation Commission Agent, Board of Health Agent, Water and Sewer Superintendent, Highway Superintendent and General Manager of the Municipal Light Department and meets on a monthly basis. Any information exchanged as part of this meeting shall be considered as advisory and shall not be binding on the part of the Applicant or Board.

2.3. PLANNING BOARD PRE-APPLICATION REVIEW

The Board may hold a pre-application review at any duly authorized meeting. Preliminary plans or sketches may be submitted for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of these Rules and Regulations and the Zoning Bylaw and to address issues of concern to the Town and abutters. If any other approvals or special permits are required from the Board for the project, then these should be discussed with the Board at this time. Any information exchanged as part of this pre-application conference shall be considered as advisory and shall not be binding on the part of the Applicant or Board.

3. PROJECT FEES

3.1. APPLICATION FEES

The Application Fee for an original Application, repetitive Application or an amendment to a Special Permit shall be as set forth below. The Application Fee shall be non-refundable, and no application shall be deemed complete until such fee is received.

- **Aquifer Protection Overlay District** pursuant to Section 6.2, \$500
- **Reduction in Parking Requirements** pursuant to Section 9.4, \$500
- **Inclusion of Affordable Housing** pursuant to Section 10.1, N/A
- **Conservation Subdivision Design (CSD)** pursuant to Section 10.2, \$5,000 plus \$100/unit.
- **Planned Unit Development (PUD)** pursuant to Section 10.3, \$5,000 plus \$100/unit.

Permits also include:

- **Site Plan Approval** pursuant to Section 13, \$500.
- **Stormwater Management & Land Disturbance** pursuant to Article 14 under the Groveland General Bylaw, \$100 plus \$.0030 times the total square footage of the area to be altered by the project.

3.2. PROJECT REVIEW FEES

The Board shall impose a Project Review Fee on those applications which require, in the judgment of the Board, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the necessary review. In hiring outside consultants, the Board may engage engineers, planners, attorneys, designers, and/ or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, bylaws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

The Board shall determine if a Project Review Fee is required to assist in the review of an application before the close of the second continuation of the public hearing for the application. If it is determined that a Project Review Fee is required, then the Board shall notify the Applicant of the amount of said fee. The required fee must be received by the Town within fourteen (14) days after the receipt of the notification. If the fee is not received the application shall be deemed incomplete, the required time limits for action upon an application by the Board shall be extended by the duration of the non-payment, and no review work shall commence until the fee has been paid in full. The Project Review Fee shall be deposited in an account established pursuant to M.G.L. Chapter 44, Section 53G (53G Account).

Excess fees in the 53G Account shall be returned to the Applicant or the Applicant's successor in interest, with the final inspection of the approved project or at the time of final disapproval of the application. Any person or entity claiming to be an Applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

3.3. INSPECTION FEES

The Applicant shall be responsible for all costs associated with inspections as required by these Rules and Regulations. Once a memorandum of decision is issued, the Applicant will be provided an estimate for the costs associated with such inspections/monitoring.

Excess Inspection Fees shall be returned to the Applicant or the Applicant's successor in interest, following the final inspection of the approved project.

4. APPLICATION REQUIREMENTS

4.1. OFFICIAL APPLICATION FORM

An Application for a Special Permit shall be made on an official Application Form, which is available on the Town website and in the Planning Office. Any communication not on this official form shall be considered as a notice of intention to apply and not as an official application. It is the responsibility of the Applicant to ensure the accuracy and completeness of all information submitted to the Board. The Applicant is also responsible for factually supporting all information contained in the application. Failure to meet these requirements may constitute grounds for the disapproval of an application.

4.2. REQUEST FOR WAIVERS

Strict compliance with these Rules and Regulations may be waived if the Board finds that the waiver is in the public interest or is not applicable to the development project, and is consistent with the intent and purpose of these Rules and Regulations and the Groveland Zoning Bylaw. A request from an Applicant for a waiver of these Rules and Regulations must be submitted in writing to the Board at the time of submission of the formal application. Such request must clearly identify the provision of these Rules and Regulations requested to be waived and the reasons why, in the Applicant's opinion, granting the requested waiver would be in the public interest, or the reasons why, in the Applicant's opinion, the specific information required is irrelevant to the project. It shall be the responsibility of the Applicant to demonstrate that the granting of a requested waiver is consistent with the intent and purpose of these Rules and Regulations and the Groveland Zoning Bylaw. If a majority of the Board votes to deny a waiver request, the Applicant shall comply with the applicable Rules and Regulations and submit all outstanding information and/or materials within fourteen (14) days of such waiver denial. Failure to provide any outstanding information and/or materials may constitute grounds for disapproval of an application.

4.3. NUMBER OF COPIES

At the time of application, the Applicant shall file one (1) full paper copy of the official Application Form and all plans, exhibits, analyses and any other information and/or attachments with the Office of the Town Clerk. The Applicant shall also file with the Planning Board one (1) electronic copy and a minimum of two (2) paper copies of the official Application Form, and one (1) electronic copy and a minimum of two (2) paper copies of all plans, exhibits, analyses and any other information and/or attachments.

4.4. SIZE OF PLAN SHEETS

Three (3) copies of the plan sheets shall be 24" x 36" and six (6) copies of the plan sheets shall be 11" x 17".

4.5. CERTIFIED ABUTTERS LIST

A list of Parties in Interest shall be created and certified by the Groveland Board of Assessors. The Parties in Interest shall include:

- Applicant;
- Abutters;
- 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 (which includes any applicable abutters in abutting communities);
- Planning Board;
- Planning Boards of all abutting communities.

4.6. OTHER VARIANCES, PERMITS AND SPECIAL PERMITS

The Applicant shall provide a list and copies of all variances, permits, special permits, and/ or orders of conditions previously issued by other Town boards and commissions or State and Federal agencies applicable to the subject property, and a list of any variances, permits, special permits, and/ or orders of conditions required to complete the proposed work. This list should include, but not be limited to, any approvals required by the Board of Health, Conservation Commission, Zoning Board of Appeals, Planning Board, MassDOT Highway Division, Massachusetts Department of Environmental Protection, U.S. Army Corp. of Engineers, and certificates issued by the Secretary of Energy and Environmental Affairs under the Massachusetts Environmental Policy Act.

5. CONSOLIDATION OF APPLICATIONS

5.1. SUBMISSION OF CONCURRENT APPLICATIONS

If the project requires approval under the M.G.L. Chapter 41, Sections 81A-81GG (Subdivision Control Law), or the issuance of any special permit for which the Board is the Special Permit Granting Authority, the Applicant is strongly encouraged to submit all such applications concurrently.

5.2. COORDINATION OF REVIEW OF OTHER APPLICATIONS

If the project requires approval under the Subdivision Control Law, or the issuance of any special permit for which the Planning Board is the Special Permit Granting Authority one or more requirements of these Rules and Regulations may be waived to avoid multiple submissions of the same information required pursuant to the various applications. In this case, the Applicant may combine the required information and plans for the various applications, provided that all information required as part of these Rules and Regulations is included in the set of combined applications, and provided the Applicant submits a written statement to that effect. All fees required under the various applications shall be submitted, unless otherwise waived by the Board.

6. PLAN & REPORT REQUIREMENTS

Plans & Reports shall be submitted as required pursuant to the applicable sections of the Zoning Bylaw.

7. ADDITIONAL INFORMATION

The Applicant may submit whatever additional information the Applicant feels is relevant to properly inform the Board about the proposed development, including but not limited to, legal opinions, deeds, historical data, studies and reports. The Board is empowered to require information in addition to that specifically required by the Zoning Bylaw or these Rules and Regulations, if it finds that such information is necessary to properly act upon the application.

8. SITE VISIT

The Planning Board may require a site visit to the proposed development site. The date and time for such site visit shall be satisfactory to both the Planning Board and Applicant. The Planning Board may request that any work subject to these Rules and Regulations be clearly flagged or otherwise delineated, prior to the scheduled site visit.

9. FORMAL REVIEW

9.1. REFERRAL TO OTHER BOARDS AND DEPARTMENTS

The Planning Board shall transmit copies of the application to the Board of Health, Highway Superintendent, Water and Sewer Superintendent, Police and Fire Departments, Conservation Commission, Building Commissioner, and Board of Selectmen for their review and recommendation, within twenty-one (21) days of the filing of the application. The Board may also transmit copies of the application to such other Boards and Departments as it may deem appropriate. These Boards and Departments shall submit reports to the Planning Board within thirty-five (35) days of referral, and the Planning Board shall make no decision upon the application until receipt of all such reports or until thirty-five (35) days have elapsed since the date of referral. Failure of any such Board or Department to make recommendations within thirty-five (35) days of receipt by such Board or Department shall be deemed a lack of opposition to the application.

9.2. PUBLIC HEARINGS

A public hearing shall be held within sixty-five (65) days after the date of filing of an Application, with the Office of the Town Clerk. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town of Groveland once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of the public hearing, and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the public hearing. Abutter Notification shall be accomplished with Certified Mail/Return Receipt Requested. The actual return receipt shall be submitted to the Planning Board at the start of the first public meeting. Failure to provide proof of Abutter Notification at the first meeting shall deem the meeting to be improperly noticed, and shall be canceled. In such an event, the Applicant shall be allowed to withdraw

the Application for re-submittal at a later date. All costs associated with re-submittal shall be the responsibility of the Applicant, including legal advertisements. The required time limits for a public hearing may be extended by written agreement between the Applicant and Board, which shall be filed in the Office of the Town Clerk.

9.3. RULES OF PROCEDURE FOR PUBLIC HEARINGS

An Applicant may appear on his own behalf, or may be represented by an authorized agent or attorney. In the absence of an appearance on behalf of an Applicant, without cause, the Board may make a decision on the basis of available information otherwise received. The Board Chair shall preside at all public hearings and meetings. The Vice Chair of the Board shall preside as Acting Chair and perform the duties of the Chair in the Chair's absence. The Applicant or his duly authorized representative shall present evidence, testimony or other information in support of the application. Following the Applicant's presentation, the Board may question the Applicant regarding the evidence, testimony or other information presented. Any persons in attendance will then be given the opportunity to speak or provide testimony. No person shall speak until recognized by the Chair, and all speakers shall then provide their names and addresses for the record. All written communication shall be submitted into the record if delivered at the public hearing or postmarked or delivered to the Board or Town Planner prior to the close of the public hearing. No further evidence, testimony or information shall be presented or entered into the record after the close of the public hearing.

10. DISPOSITION OF APPLICATION

10.1. VOTE

The affirmative vote of a minimum of four (4) members of the five (5)-member Board shall be required to authorize and issue a Special Permit. The record shall show the vote of each member or indicate if a member is absent or fails to vote. The decision shall state clearly the reasons for the action, and shall include specific findings as required by M.G.L. Chapter 40A. The decision may also impose conditions, safeguards and limitations which shall be included as part of the Special Permit decision.

10.2. DECISION

The decision of the Board shall be made and filed with the Office of the Town Clerk within ninety (90) days following the close of the public hearing. The required time limits for a decision may be extended by written agreement between the Applicant and Board, which shall be filed in the Office of the Town Clerk.

10.3. NOTIFICATION OF DECISION

A notice of the Special Permit decision shall be mailed by the Board, postage prepaid, to the Applicant, and to persons present at the public hearing requesting such notice. The notice shall specify that appeals, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date the decision was filed with the Office of the Town Clerk.

10.4. RECORDING AND OBTAINANCE OF ALL PERMITS

The Applicant shall file the Special Permit decision, as certified by the Town Clerk that the twenty (20) day appeal period has expired, in the Southern Essex District Registry of Deeds or land Court. The certified copy of the decision and evidence that the decision has been recorded in the Southern Essex

District Registry of Deeds or registered with the Land Court must be provided to the Planning Board and Building Commissioner. The Applicant is responsible for obtaining all necessary permits, licenses, rights and/ or releases. Failure to do so may constitute grounds for the disapproval of the Application or recession of a previously approved Special Permit.

10.5. CONSTRUCTIVE APPROVAL

Failure by the Board to file a Special Permit decision with the Office of the Town Clerk within ninety (90) days following the close of the public hearing, or the extended time agreed upon by the Board and Applicant, shall be deemed to be a constructive grant of the Special Permit. An Applicant who seeks constructive approval by reason of the failure of the Board to act within the required time period must provide written notification to the Office of the Town Clerk within fourteen (14) days of the expiration of such time period. The Applicant must notify the Parties in Interest by mail, postage prepaid, of the constructive grant. The notice shall specify that appeals, if any, must be made pursuant to M.G.L. Chapter 40A, Section 17 and filed within twenty (20) days after the date the Office of the Town Clerk received written notification from the Applicant that the Board failed to act within the prescribed time period. In the event a Special Permit is deemed granted as the result of the failure of the Board to act within the prescribed time period, the Applicant should provide sufficient data and materials to meet all requirements of the Zoning Bylaw and relevant statutes.

10.6. WITHDRAWAL OF APPLICATION

An Applicant may withdraw an application without prejudice by written notice to the Board at any time prior to the first publication of the notice of the public hearing. After such public notice, withdrawal of an application without prejudice shall be permitted only by majority vote of the Board.

10.7. APPEALS

Any person aggrieved by a decision of the Board may appeal such decision as provided in M.G.L. Chapter 40A, Section 17 within twenty (20) days after the date the decision was filed with the Office of the Town Clerk.

10.8. REPETITIVE APPLICATIONS

No application which has been unfavorably and finally acted upon by the Board shall be reconsidered for a Special Permit within two (2) years after the date of said final unfavorable action unless the Board finds, by vote of four (4) members, specific and material changes in the conditions upon which the previous unfavorable action was based and such changes are described in the record of the Board's proceedings. Submission and notice requirements for requests to amend a Special Permit are the same as for an original Special Permit Application.

10.9. EFFECTIVE DATE OF SPECIAL PERMIT

No Special Permit shall take effect until a copy of the decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and no appeal has been filed, is recorded in the Southern Essex District Registry of Deeds or registered with the Land Court and indexed under the name of the property owner of record and parcel address.

10.10. LAPSE OF SPECIAL PERMIT

A Special Permit shall lapse within two (2) years from the date of the final action by the Board unless substantial construction or use thereof has commenced within this time period.

10.11. EXTENSION OF SPECIAL PERMIT

Prior to the expiration of a Special Permit, the Applicant may apply for an extension of the Special Permit for a period not to exceed one (1) year. Requests for extension may be made on an annual basis in such form as the Planning Board shall require. The Applicant may only apply for an extension if the substantial construction or use thereof has not commenced for good cause.

10.12. MODIFICATION, AMENDMENT OR RENEWAL OF SPECIAL PERMIT

The Board shall have the authority to modify, amend or renew its approval of a Special Permit upon the written request of the property owner of record and/ or an agent or prospective purchaser who submits certification of property interest and authority to file if the Board determines that such action is consistent with the purposes and intent of the Zoning Bylaw.

11. RELATIONSHIP TO SUBDIVISION CONTROL

11.1. APPROVAL NOT REQUIRED PLAN

If the subject property will require the division of land subject to the Subdivision Control Act, M.G.L. Chapter 41, Section 81P, then subsequent to the approval of a Special Permit, the Applicant shall submit an Approval Not Required (ANR) Plan for the approved project consistent with the Subdivision Regulations. Requirements for the preparation and submission of an ANR Plan are set forth in the Subdivision Regulations.

11.2. PRELIMINARY SUBDIVISION PLAN

If the property will require the division of land subject to the Subdivision Control Act, M.G.L. Chapter 41, Section 810, the Applicant should prepare a Preliminary Subdivision Plan, to be submitted concurrently with the Application. Requirements for the preparation and submission of a Preliminary Subdivision Plan are set forth in the Subdivision Regulations.

11.3. DEFINITIVE SUBDIVISION PLAN

If the subject property will require the division of land subject to the Subdivision Control Act, M.G.L. Chapter 41, Section 810, then subsequent to the approval of a Special Permit and its related Preliminary Subdivision Plan, the Applicant shall submit a Definitive Subdivision Plan for the approved project consistent with the Subdivision Regulations. Requirements for the preparation and submission of a Definitive Subdivision Plan are set forth in the Subdivision Regulations.

11.4. RELATIONSHIP OF DEFINITIVE SUBDIVISION PLAN TO SPECIAL PERMIT

The approval of a Special Permit by the Planning Board shall neither oblige the Planning Board to approve the related Definitive Subdivision Plan nor substitute the approval of the Special Permit for the approval of the related Definitive Subdivision Plan.

12. EVIDENCE OF SATISFACTORY PERFORMANCE

The Applicant shall submit an as-built plan (24" x 36") stamped by a Registered Professional Engineer in Massachusetts that shows all construction, site design, including stormwater structures and other pertinent site features. One paper copy and one electronic copy (PDF) shall be submitted to the Town Planner. If over one (1) year has elapsed from the issuance of the Certificate of Occupancy, the Applicant must submit a second letter from the architect and engineer verifying that the landscaping and site layout substantially complies with the Plans referenced in this Memorandum of Decision as endorsed by the Planning Board.

13. BUILDING AND OCCUPANCY PERMITS

13.1. ISSUANCE OF BUILDING PERMIT

Prior to the issuance of a Building Permit within an approved development, the Building Commissioner shall verify that a Special Permit has been issued by the Board and shall certify that the construction plans are consistent with the Special Permit.

Prior to the issuance of a Building Permit within an approved development, and prior to the sale of any lot within an approved development, the Applicant shall certify to the Board and Building Commissioner that the Special Permit, associated Definitive Subdivision Plan or ANR Plan, and any deed restriction, deed rider, easement, restrictive covenant, contractual agreement or other instrument associated with the Special Permit, associated Definitive Subdivision Plan or ANR Plan, has been recorded at the Southern Essex District Registry of Deeds or registered with the Land Court.

13.2. ISSUANCE OF OCCUPANCY PERMIT

Prior to the issuance of an occupancy permit for a structure within an approved development, the Planning Board shall certify to the Building Commissioner that improvements with respect to access, drainage, utilities and grading which meet the functional standards equivalent to those established in the Subdivision Regulations have been completed to serve the structure, or security for their completion has been received.

14. LONG-TERM COMPLIANCE

Subsequent to the recording of a Special Permit at the Southern Essex District Registry of Deeds or registration with the Land Court, no land therein shall be sold, and no lot line or structure altered, in a manner that deviates from the approved Special Permit so as to increase the extent of nonconformity with the standard dimensional regulations of the Zoning Bylaw, unless and until an amendment or modification of the Special Permit is granted by the Board and recorded at the Southern Essex District Registry of Deeds or registered with the Land Court.

15. WAIVER OF FULL COMPLIANCE

The Planning Board may grant one or more waivers from some or all of the requirements herein, if in its determination, such waivers are deemed to serve the public interest, do not conflict with M.G.L. Chapter 40A or the provisions of the Zoning Bylaw, will result in a substantially improved project, will pose no substantial detriment to any adjacent property or proximate neighborhood, and will not nullify or substantially derogate from the intent or purpose of these regulations.

PLANNING BOARD TOWN OF GROVELAND

RULES AND REGULATIONS OF THE GROVELAND PLANNING BOARD AS SPECIAL PERMIT GRANTING AUTHORITY PURSUANT TO VARIOUS SECTIONS OF THE GROVELAND ZONING BYLAW AND GROVELAND GENERAL BYLAW

**ADOPTED BY THE GROVELAND PLANNING BOARD
SEPTEMBER 17, 2019**

Robert Danforth, Chair
Lisa Chandler, Vice-Chair
Robert Arakelian
Walter Sorenson
Brad Ligols, Associate Member