



BLANDFORD PLANNING BOARD

RULES AND REGULATIONS

Adopted _____, 2021

In accordance with Chapter 40A, Section 9 of the Massachusetts General Laws, the Blandford Planning Board adopts the following Rules and Regulations governing the organization and conduct of the Planning Board and the governing review and action on Site Plan Review, and Special Permit Applications.

Town of Blandford – Planning Board Rules and Regulations

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PLANNING BOARD RULES AND REGULATIONS

SECTION 1.0: PURPOSE AND AUTHORITY:

1.1 **Purpose:** The Blandford Planning Board in accordance with Chapter 40A, Section 9 of the Commonwealth of Massachusetts, hereby adopts the following Rules and Regulations, governing the organization and conduct of the Planning Board and governing review and action on Site Plan Review Applications and Special Permit applications. Unless otherwise noted, each Section applies to both Site Plan Reviews and Special Permits.

1.2 **Amendments:** These Rules and Regulations, as amended from time to time, become effective upon their filing with the Blandford Town Clerk and supersede any previously filed with the Clerk. An amendment shall be presented in writing at a regular meeting and action taken thereof at a subsequent regular meeting, whereas these Rules may be amended by a majority vote of the members of the Board.

1.3 Contact and Meeting Information:

Blandford Planning Board
Town Hall
1 Russell Stage Road
Blandford, MA 01008

The Planning Board meets on the first Wednesday of the month, subject to change unless noted otherwise, at the Blandford Town Hall.

1.4 Statutory Requirements: G.L.c.41, §81Q

Planning Boards must adopt rules and regulations and file with the Town Clerk, then with the Registry of Deeds, and Recorder of Land Court.

1.5 Powers and Duties of the Planning Board:

1.51 Prepare, adopt, amend, and implement a Master Plan for the Town under G.L. c.41, §81D.

1.52 Prepare and submit zoning bylaw amendments for consideration by Town Meeting.

1.53 Adopt, administer, and amend from time to time the Blandford Rules and Regulations of the Subdivision of Lands.

1.54 Review and approve Site Plans, when applicable. G.L. c. 40A, § 1A.

1.55 Serve as a Special Permit Granting Authority when designated as such in the Blandford Zoning Bylaw and in accordance with G.L. c. 40A, § 9.

1.56 Repetitive Petitions: G.L. c. 40A, §16.

1.57 Scenic Roads and Shade Trees: G.L. c. 40, § 15C, G.L. c. 87.

SECTION 2.0 ORGANIZATION

2.1 MEMBERS AND OFFICERS

2.1.1 **Board Makeup** - The Planning Board shall consist of five (5) members elected for 5 years. Each year one member is up for re-election. If a member resigns or cannot serve out the term, the Select Board will appoint someone to that open position. At the time of the Town Election the appointed member may choose to run for the open position, and if elected, will serve out the unexpired term of the member that he/she replaced. If no one runs for the open position the Select Board will appoint a new member for a period of 1 year. This ensures that only one position on the Board should be open for election annually.

2.2 **Annual Election of Chair & Vice Chair** - The members shall elect, on a yearly basis, a Chair and Vice-Chair of the Board.

2.3 **Associate Members** – Planning Boards of five (5) members can have one (1) associate member who may be designated by chair if needed for a case and acts only due to absence, inability to act, conflict or vacancy. When so designated, the Associate Member shall possess all powers and responsibilities of such Member. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.

2.4 **Chair** - The Chair shall be eligible to vote on all matters and shall decide points of order, unless overruled by a majority of the Board. The Chair shall appoint such standing subcommittees as may be constituted.

2.5 **Vice Chair** - The Vice-Chair shall act as Chair when the Chair is absent or is unable to perform his/her duties. In the absence of both the Chair and Vice-Chair, either the Chair shall appoint an acting Chair prior to the meeting, or the Board members at the meeting shall elect an acting Chair.

2.6 **Regional Planning Appointment** - The Board, by majority vote, shall appoint one of its members to serve as a member of the relevant regional Planning Commission. The appointment shall be for a period of one year.

2.7 Planning Board Member Personal Responsibilities

2.7.1 General knowledge required of a Board Member

2.7.1.1 The authority of the board and its duties.

2.7.1.2 How the Board operates.

2.7.1.3 Standards for decision-making.

2.7.1.4 Applicable state regulations, laws, and plans,

2.7.1.5 Other local relevant plans or regulations.

2.7.1.6 The authority of other boards.

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2.7.2 Policies and Advice Practices for Members

2.7.2.1 Any advice, opinion, or information given by any Board member or any other official or employee of the Town shall not be binding on the Board. It is declared to be the policy of the Board to discourage any personal appeals or comments to members of the Board and that all communications outside a convened meeting of the Board concerning proposed or pending matters shall be submitted through the clerk.

2.7.3 Conflict of Interest Law Distribution and Acknowledgement – G.L. c.268A

2.7.3.1 Anyone performing services for the town or holding a municipal position, whether paid or unpaid is considered a municipal employee.

2.7.3.2 All town employees must:

2.7.3.2.1 Be provided with a Summary of the Conflict-of-Interest Law for Municipal Employees within 30 days of hire or election, and then annually thereafter, and Acknowledge in writing that they received the summary.

2.7.4 Open Meeting Law – G.L. c. 30A, §§18-25

2.7.4.1 The Open Meeting Law ensures transparency in the deliberations on which public policy is based.

2.7.4.1.1 Within two weeks of a member's election or appointment or the taking of the oath of office, whichever occurs later, all members of public bodies must complete the Certificate of Receipt of Open Meeting Law Materials.

2.8 MEETINGS

2.8.1 Regular meetings of the Board shall be held as necessary on the first Wednesday of each month, or at other times as determined by the Board at a place specified in the meeting notice.

2.8.2 Agendas for the Board meetings are:

2.8.2.1 Drawn up on the Friday prior to the meeting by the Planning Chair.

2.8.2.2 Agenda must be posted in a legible, easily understandable format and contain the date, time, and place of the meeting.

2.8.2.3 Agendas should list all topics that the chair reasonable anticipates will be discussed at the meeting, with enough specificity to reasonably inform the public of the issues to be discussed.

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2.8.2.4 All agenda items shall be distributed to the Planning Board members no later than Thursday prior to the meeting to ensure all members are polled for additional inclusions on the agenda.

2.8.2.5 The finalized agenda for the meetings shall be:

2.8.2.5.1 Filed with the Town Clerk and sent to the Town webmaster.

2.8.2.5.2 Publicly posted on the Town Hall bulletin board with a date and time stamp indicating when the notice was posted, as well as the date and time of any revisions, if applicable, at least 48 hours, not including Saturdays, Sundays, or legal holidays, prior to such meetings.

2.8.2.5.3 Agendas shall also be sent to those included on the agenda and any other interested parties.

2.8.3 Special meetings - may be called by the Chair or at the request of two members. Written notice thereof shall be given to each member at least 48 hours before the time set, except that announcement of a special meeting at any meeting attended by all members shall be sufficient notice. Notices shall be posted publicly as required by law.

2.8.4 Site visits - The Board, or a designated subcommittee, shall make a site visit to the property that is the subject of the application. The applicant will be notified of the site visit. If the Board judges the application to be insignificant in its impact, the Board may waive the site visit. During a site visit, no deliberations or decisions shall be made by the Board that would conflict with the Open Meeting Law.

2.8.5 Public hearings -

2.8.5.1 The Board shall schedule any public hearings at the beginning of meetings, following review and action on minutes.

2.8.5.2 Regular Board business shall be scheduled following public hearings.

2.8.5.3 Regular Board business, while conducted in meetings open to the public, is not a public hearing.

2.8.5.4 The Board will allow testimony only as it deems necessary. Unsolicited comments may be ruled out of order by the Chair.

2.8.6 Executive Session

2.8.6.1 While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session.

2.8.6.2 Before going into executive session, the chair of the public body must:

2.8.6.2.1 Convene in open session,

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- 2.8.6.2.2 state the reason for going into executive session, stating all subjects that may be revealed without compromising the purpose for which executive session was called, state whether the public body will reconvene in open session at the close of the executive session; and
 - 2.8.6.2.3 take a roll call vote of the body to enter/exit executive session.
- 2.8.7 Public Records and the Records Custodian Law – G.L., c.4, §7(s26)
 - 2.8.7.1 Every document, paper, record, map, photograph, etc., as defined by law, that is made or received by a government entity or employee is presumed to be a public record.
 - 2.8.7.2 Specific statutory exemptions to this rule have been created by the Legislature.
 - 2.8.7.3 The Records Custodian is responsible for providing copies of existing public records in their possession upon request for a determined fee.
- 2.8.8 Public Meeting Minutes – G.L. c4, §7(26)
 - 2.8.8.1 Minutes of open meetings, regardless of form, are public and must be made available at the close of the meeting.
 - 2.8.8.2 There is no requirement that the minutes be transcribed or approved before they are made public.
 - 2.8.8.3 A records custodian should clearly mark all unapproved minutes “official draft minutes.”

SECTION 3.0 - APPLICATIONS

3.1 FILINGS

- 3.1.1 Applications to the Board for either Site Plan Review or Special Permit shall be filed with the Planning Board. The date of receipt for the Planning Board shall be considered the date on which the application has been filed. All required information and the filing fee shall be required at the time of filing unless waived by the Board.

3.2 REQUIRED MATERIALS AND INFORMATION

- 3.2.1 Applicant - Applications to the Board may be brought by a property owner, a tenant, a licensee, a prospective purchaser, or other Applicant if documentation from the owner certifying the Applicant’s legal interest and right to file accompanies the petition or application.
- 3.2.2 Applications Forms. Application forms for ANRs (Form A), Site Plan Review or Special permits are available on the Town website or Planning Board Office.
- 3.2.3 Submissions

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3.2.3.1 The Applicant for a Special Permit or Site Plan Review shall submit the following to the Board:

- a. Special Permit or Site Plan Application Form, nine (9) copies
- b. Filing fee, with check made payable to the Town of Blandford.
- c. Drainage calculations and supplement plans (if applicable), three (3) copies
- d. Names and addresses of abutters. The Applicant shall request from the Assessor a certified list of the names and addresses of all parties in interest, including the Applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the Applicant, as they appear on the most recent applicable tax list, all as required by G.L. c. 40A, § 11, and the Zoning Bylaw.
- e. Site Plan: Nine (9) full-size (24" x 36") site plan copies. An original mylar of the site plan may be necessary. The site plan shall be prepared by a Registered Professional Engineer, Land Surveyor or Landscape Architect at a scale of 1" x 20" for the full-size site plan, shall be submitted with the application, along with an additional narrative. as necessary. Information to be included with the submission shall consist of, but not be limited to, the following:
 - 1) Name of the project-locus, date, and scale plan.
 - 2) Name and address of the owner of record, developer, and seal of the engineer, landscape architect or engineer.
 - 3) The location and boundaries of the lot, adjacent streets or ways, names of owners and location of all adjacent properties and those within 300 feet of the property line, and any relevant zoning district boundaries.
 - 4) Existing and proposed topography at the two-foot contour interval, the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding and base flood elevations and unique natural land features.
 - 5) Existing and proposed structures, including dimensions and elevations; and all exterior entrances and exits.
 - 6) The location of existing and proposed parking and loading areas, public and private ways, driveways, walkways, sidewalks, curbing, access and egress points.
 - 7) The location and description of all proposed septic systems, a soil percolation test, water supply, storm drainage systems including existing and proposed drain lines, culverts, drainage swales, catch basins, drainage calculations, and sub-drainage along with soil logs, utilities, hydrants, manholes, lighting fixtures, and refuse and other waste disposal methods and facilities.
 - 8) Proposed landscape features including the location and a description of buffers, screening, fencing, and plantings, including the size and type of plants material.
 - 9) Location, dimensions, height, color, illumination, and characteristics of existing and proposed signs.

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- 10) The location and a description of proposed open space or recreation areas.
- 11) A lighting plan, including parking lot and building exterior lighting and any provision of light reduction through the use of shields, screening, or similar actions.
- 12) Estimated daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site.
- 13) A plan for the control of erosion, dust, and silt, both during and after construction sequencing, temporary and permanent erosion control, and protection of water bodies.
- 14) For commercial uses, maximum areas of the building to be used for selling, offices, business or other uses, number of employees, seating capacity where applicable, and number of parking spaces required for intended use.

3.2.3.2 Waivers. The Planning Board shall have the right to waive any of the items in B and C above or to request additional data necessary to render a decision.

3.2.3.3 Revised Plans. Revised plans which are submitted to the Board as condition of Site Plan Review, for approval, must be reviewed by a majority of the members who were sitting at the public hearing for the application.

3.3 FEES

3.3.1 General

All applications shall be accompanied by the appropriate fee as determined by the Planning Board list of the application fees. Additional costs to the applicant may be incurred for public notifications not to be limited to the cost to publish in the local newspaper and to cover abutters' mailing costs.

3.3.2 Project Review Fees

3.3.2.1 Introduction

In accordance with M.G.L. Chapter 44, Section 53G, the Planning Board may impose project review fees for those applications which require the services of outside consultants for the review process due to the size, complexity, or scale of a proposed project; the need for additional expertise in the review; or because of the potential impacts of a project. The Board may engage attorneys, engineers, planners, landscape architects, architects, or other appropriate professionals.

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3.3.2.2 Fee Payment

The Planning Board shall determine the amount of the initial deposit to be made and the amount of any additional funds that may be required during the review process. The applicant shall pay such fees to the Town of Blandford and such fees shall be deposited in a special account with the town.

3.3.2.3 Expenditure of Fees

Outside consultants retained by the Planning Board shall be paid from this special account. The expenditure of said fees shall be at the direction of the Planning Board, without further appropriation. Said fees are to be expended only in connection with services rendered for the specific project for which the fees were collected.

3.3.2.4 Excess Fees

After completion of the Planning Board's review of a project, any excess fee amount, including interest, shall be refunded to the applicant or the applicant's successor in interest.

3.3.2.5 Failure to Pay Fee

Failure to pay a Review Fee by the applicant shall be grounds to deem the application incomplete and may be considered adequate grounds for disapproval of the subject application. No review work by a consultant shall commence until the fee has been paid in full.

3.3.2.6 Administrative Appeals

Minimum qualifications for outside consultants shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or in a related field. The choice of a consultant selected by the Planning Board for the review of an application may be appealed in writing to the Select Board by the applicant, provided such appeal is initiated within two weeks of the selection. The ground for such appeal shall be limited to claims that the selected consultant:

- a. Has a conflict of interest.
- b. Does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three years or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal.

In the event that no decision is made by the Select Board within one month following the filing of the administrative appeal, the selection made by the Planning Board shall stand.

3.3.2.7 Reports

- a. The Town Treasurer shall submit annually a report of said special account to the Chief Elected Board and Chief Administrative Office of the Town.
- b. The Town Treasurer shall cause said report to be published in the annual report of the Town.
- c. The Town Treasurer shall submit annually a copy of said report to the director of the Bureau of Accounts.

3.4 DISTRIBUTION OF PLANS

3.4.1 The Board shall send transmittal forms, and copies of the plans where necessary, to appropriate Town boards/commission/departments including, but not limited to, the Town Engineer, Building Commissioner, Conservation Commission, Historic Commission, Fire Chief, Highway Superintendent, and the like. These boards shall have 35 days to submit their comments to the Planning Board.

SECTION 4.0 - PUBLIC HEARING

4.1 NOTICE

4.1.1 Notice of hearings shall be advertised as required by Chapter 40A, Section 11. In addition, a copy of the advertised notice shall be sent by mail, at least ten days prior to the date of the hearing, postage prepaid, or delivered, to all parties in interest and to applicable boards, commissions, and departments as determined by the Board. The Planning Board will prepare the abutter notifications to be mailed and public hearing notice to be posted. Additional costs to the applicant may be incurred.

4.2 HEARING PROCEDURES

4.2.1 The Board shall schedule a public hearing within 65 days of the date of filing, unless the petitioner agrees in writing to an extension of this time period. Any such written agreement shall be filed with the Town Clerk. All hearings shall be open to the public. The applicant may appear on his/her own behalf or may be represented by an agent. If the applicant or representative is not present without due cause, the Board may act based on the information before it, may continue the hearing or may declare the petition withdrawn without prejudice.

4.2.2 Continuances. A continuance may be requested by an Applicant by written request submitted to the clerk in advance of a hearing or orally at a hearing. The Board may, in its discretion, allow or deny any request for a continuance. Unless notified in writing that a continuance has been granted, an Applicant must appear at a scheduled hearing. Any continuance granted upon request of an Applicant shall constitute an agreement by the Applicant to extend the time limits for actions by the Board by the duration of the continuance and such agreement, at the request of the Board, shall be set forth in writing and filed with the Town Clerk.

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4.2.3 Hearing Steps - Hearings will start at the time stated in the notice unless delayed because of prior hearings. After the opening of the public hearing, the order of business will generally proceed as follows:

4.2.3.1 The Chair or Chair's designee shall read the legal notice and the Chair shall present any materials received in response to the application.

4.2.3.2 Presentation by the Applicant, which may be limited at the discretion of the Chair. Each plan or other item used as part of the presentation shall be identified by its proper title and date. Each item shall be identified as either part of the application or a copy shall be provided for the file.

4.2.3.3 Questions or comments by the members of the Board. At the direction of the Chair, responses shall be made by either Town staff or the Applicant.

4.2.3.4 Questions or comments by Town staff, followed by responses by the Applicant.

4.2.3.5 Questions or comments by members of other Town Boards. At the direction of the Chair, responses shall be made by either Town staff or the Applicant.

4.2.3.6 Questions by members of the public seeking information. Persons wishing to be heard must be recognized by the Chair and must state their name and address prior to asking a question. At the direction of the Chair, responses shall be made by either Town staff or the Applicant.

4.2.3.7 Opponent's formal presentation (if applicable), which may be limited at the discretion of the Chair.

4.2.3.8 Applicant's rebuttal (if applicable), which shall be restricted to matters raised by opponents.

4.2.3.9 Rebuttals may only be allowed at the discretion of the Chair. Similarly, no cross-examination will be allowed, although questions seeking information and deemed relevant by the Board may be allowed at its discretion.

4.2.3.10 Board members ask for any additional information needed to render a decision.

4.2.3.11 The Chair, upon majority vote of the Board, will continue the public hearing to a date, time, and place certain that is announced at the public hearing or close the public hearing if the Board feels they have received sufficient information to render a decision. Upon the close of a hearing, no additional information received by the Board may be used in the making of its decision. Members of the Board hearing the case may, at any time, direct appropriate questions during the hearing. All questions shall be directed through the Chair.

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- 4.2.3.12 If requested by the Applicant, the Board shall make every reasonable effort to coordinate its review of special permit or site plan applications with the boards, commissions, or officials that have authority over other permits and approvals required for the project to proceed.

Coordinated or joint public hearings may be conducted to the extent allowed by law, recognizing that each permitting authority is subject to a specific statutory decision period and not all such decision periods coincide.

- 4.2.3.13 At the hearing, any party whether entitled to notice or not may appear in person or by agent or by attorney.
- 4.2.3.14 The Board shall retain any record which has been introduced in evidence, for reference in consideration of the case.
- 4.2.3.15 No person shall address a hearing of the Board without the Chair's permission, and all persons shall, at the request of the Chair, be silent. If a person, after warning from the Chair, persists in disorderly behavior, the Chair may order him/her to withdraw from the hearing, and, if he/she does not withdraw, may order a constable or any other person to remove him/her and confine him/her in some convenient place until the hearing is adjourned.
- 4.2.3.16 The Chair may close the hearing immediately if, in his/her opinion, these Rules are being violated and/or the hearing is becoming disorderly.
- 4.2.3.17 In the event an Applicant fails to appear at a scheduled hearing, the Board may continue the matter or, in its discretion, dismiss the matter. Unless the Board indicates otherwise in its decision, any such dismissal shall be deemed a withdrawal without prejudice to refilling the application.

SECTION 5.0 - DECISION

5.1 REVIEW CRITERIA

The Board shall use the review criteria/design guidelines found in Section 9.1 of the Blandford Zoning Bylaw (for Site Plan Review), and Section 9.2 (for Special Permits), applicable criteria found in these Rules and Regulations and any other applicable sections of the Zoning Bylaw in reviewing and making decision on applicants before it.

5.2 QUORUM AND VOTING REQUIREMENTS

Generally, the majority of a board is a quorum and majority of quorum may act, however:

5.2.1 Special Permits: G.L. c. 40A, §9

Special Permits require a 4/5 vote for the 5-member board for a Special Permit application.

5.2.2 Site Plan Review

The concurring vote of a simple majority, but not fewer than three (3), of the members of the Board participating and voting shall be required for any decision on a site plan application (abstaining members being considered not to be voting).

5.3 DECISION AND FINDINGS

5.3.1 The Board’s written decision shall consist of either:

5.3.1.1 Approval of the application based on specific findings that the project meets all of the necessary sections of the Bylaw.

5.3.1.2 Denial of the application based on a finding that either: (1) insufficient information was submitted with the application in order for the Board to adequately review the proposal; or (2) a determination, based on specific findings, that the project does not meet the applicable sections of the Zoning Bylaw.

5.3.1.3 Approval of the application, subject to conditions, modifications, and reasonable restrictions necessary to ensure compliance with appropriate sections of the Bylaw.

5.3.1.4 Revocation of Special Permit - The Board may reconsider its decisions on the basis of: fraud, serious mistake, and gross negligence, and with concurring-four vote majority, may revoke a Special Permit in a public hearing setting that follows G.L. c. 40A, § 11.

5.3.1.5 The period of review for a special permit requiring site plan review shall be the same as any other special permit and shall conform to the requirements of State Zoning Act, M.G.L. Chapter 40A. Specifically a joint public hearing to address the Special Permit application and Site Plan Review application shall be held within sixty-five (65) days of the filing of a special permit application with the Planning Board or Board of Appeals. The Planning Board shall then have ninety (90) days following the public hearing in which to act.

5.4 WITHDRAWAL

5.4.1 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 publication date of the notice may be granted only by permission of a majority, of the Board.

5.5 EXTENSION OF TIME

5.5.1 An Applicant may request an extension to the statutory limits for the Planning Board to act on an application to provide additional time to discuss issues related to an application filed pursuant to these Rules. The request shall be made in writing, giving a description of the application and plan, the date of filing, the statutory deadline for action, any previously approved extensions, the length of the requested extension and the proposed date for final action. A copy of the request for an extension together with the Board's approval for the extension shall be filed with the Town Clerk.

SECTION 6.0 - ADOPTION

These Rules and Regulations are hereby adopted on May 5, 2021 by the Planning Board.

Amended: _____

Amended: _____