



**TOWN OF SEEKONK
BOARD OF APPEALS
RULES AND REGULATIONS**

(Adopted January 7, 2019)

These Rules and Regulations have been prepared by the Board of Appeals in compliance with Chapter 40A, Sections 9 and 12 of the Massachusetts General Laws, as amended and supersede those dated October 7, 1968, as amended.

I. ORGANIZATION

A. Members and Officers:

The Board of Appeals shall consist of five regular members and three alternate members appointed by the Board of Selectmen to serve for a term of three years.

At the first regular meeting following the confirmation of the annual appointee, the Board shall organize by way of electing a Chairman and Vice Chairman. The Chairman shall preside at all meetings of the Board. In case of the absence of the Chairman, the Vice Chairman shall preside. In the case of both the Chairman and Vice Chairman being absent or otherwise unable to serve as chair for a particular meeting or matter before the Board; the Board shall have the authority to appoint a temporary Chairman from among the remaining qualified Board members subject to the ability of the remaining Board members to constitute the require quorum of four (4) members.

B. Powers and Duties of the Chairman:

The Chairman shall vote and be recorded on all matters coming before the Board. Subject to these Rules, the Chairman shall issue the call for and preside at all meetings and hearings; decide all points of order, unless overruled by a majority of the panel in session at the time; and appoint such committees as may be found necessary or desirable. In addition to powers granted by the **General Laws of the Commonwealth** and the **Town of Seekonk By-Laws**, and subject to these Rules and further instructions of the Board, the Chairman, or his designee, shall transact the official business of the Board; supervise the work of the Clerk; request necessary help; direct the work of all subordinates; and exercise general supervisory power. He shall, at each meeting, report on all official transactions that have not otherwise come to the attention of the Board.

C. Powers and Duties of the Vice-Chairman:

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

D. Powers and Duties of the Clerk:

The Clerk shall be such a person, not necessarily a member of the Board, designated by the Board. Subject to the direction of the Board and its Chairman, he or she, shall conduct all correspondence of the Board; attend all meetings and hearings; receive and review all applications that are submitted to the Town Clerk for compliance with the rules of the Board; keep dockets and accurate minutes of the Board's proceedings;

compile all required records; maintain necessary files and indexes and generally supervise all clerical work of the Board.

The minutes of the Board shall include the record of all meetings and hearings, all pertinent questions and answers that are brought up at any hearing, the decisions relating to each case, the vote of each member, those absent being so marked, and all other official actions of the Board.

In accordance with § 11 of **Chapter 40A** of the **General Laws**, and § 2.1.1 of the **Town of Seekonk Zoning By-Laws** and subject to the provisions of the **Town Charter**; the Board may, subject to an appropriation, employ experts and clerical and other assistants to carry out the clerical work or otherwise support the work of the Board, including but not limited to: all correspondence, keeping of records of the Board's proceedings, compilation of all required records, maintenance of necessary files, preparation and distribution of legal notice of all hearings and decisions as required by the **General Laws**.

E. Powers and Duties of Alternate Members:

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

F. Meetings and Hearings of the Board:

Meetings may be called by the Chairman, or, at the request of two members. Written notice thereof shall be given to each members at least 48 hours before the time set, except that the announcement of a special meeting at any meeting attended by all members shall be sufficient notice of such meeting. All meetings and hearings of the Board shall be open to the public, with notice thereof posted publicly as required by law.

G. Quorum:

A quorum of the Board shall consist of four (4) members, regular or alternate. Should fewer than five members of the Zoning Board of Appeals sit to consider an application, the applicant shall have the right to request the continuance of their application until such time as a full five members of the Zoning Board of Appeals, alternate members included, may be available to hear the petition or appeal. It shall be the policy of the Seekonk Zoning Board of appeals to grant such continuances by right.

II. APPLICATION FOR HEARING

A. Standing to Seek Relief:

The Board may hear applications from any property owners or duly authorized applicants, as well as, appeals or petitions from any person aggrieved by reason of inability to obtain a permit or enforcement action from any administrative officer under the provisions of the **Town of Seekonk Zoning By-laws** or **Chapter 40A** of the **Massachusetts General Laws**, by the Southeastern Regional Planning Council, or by any person including an officer or Board of the Town of Seekonk, or of an abutting city or town aggrieved by an order or decision of the Building Official, or other administrative official, in violation of any provision of the **Town of Seekonk Zoning By-laws** and/or **Chapter 40A** of the **Massachusetts General Law**.

B. Approved Forms:

Every appeal, petition, or application to the Board shall be complete in all respects and shall be submitted on an approved form adopted for that purpose. Forms can be obtained through the Clerk of the Board or the Town's official website at www.seekonk-ma.gov.

Incomplete applications or any other communication, whether or not it purports to be an appeal, petition, or application, shall constitute mere notice of intention to seek relief, until such time as it is properly made on an approved form and complete. The Board shall only consider a properly completed form with all required supporting documentation attached to be an appeal, petition or application. **A Guide to the Appeals Process** is a document available at the office of the Board further explaining the application process and may also be downloaded from the Town's web site: www.seekonk-ma.gov.

C. Manner of Filing:

One original and eleven (11)-copies of the complete application for each item of relief (appeal, variance or special permit) being requested and supporting documents shall be filed with the Town Clerk together with the filing fee. The applicant shall confer with the Clerk of the Board so as to avoid unnecessary duplicate submission of supporting plans or documents and to coordinate advertisement and notice of the application(s). One copy of the application(s) bearing the date and time of the filing as certified by the Town Clerk shall be filed forthwith by the petitioner with the Office of the Zoning Board of Appeals. Upon receipt, the Clerk of the Board will docket the matter(s) in accordance with **subsection F** of this section, and circulate the application(s) to the Board members and any reviewing Departments as applicable. In the case of an appeal, one copy of the application bearing the date and time of the filing as certified by the Town Clerk shall also be filed forthwith by the petitioner with the official, department, or board whose decision is being appealed.

D. Submission Requirements:

At the public hearing the Board will discuss and make its decision on the basis of the plans submitted at the time of filing, except where the plans in question have been revised after site plan review or where the Board shall otherwise determine for good cause shown. To be accepted as a complete filing, the application ***must*** include:

1. Application for Hearing - bearing the signature of the property owner and applicant, or the appellant, or their duly authorized agents. A separate application is required for each element of relief being sought.
2. Letter of Authorization - If the petitioner is not the owner of the subject property, a letter of permission by the Owner authorizing the applicant to petition the ZBA must be included in the packet.
3. Site Plans & Certified Plot Plans – Plan submissions shall be in accordance with **Section 7.2 Certified Plot Plan**, of the **Seekonk Zoning Bylaws**; endorsed by a registered professional engineer or registered land surveyor. The plan shall show: scale, north arrow, zoning district, lot dimensions and area, flood plain line, topography if relevant, street layout and paving, existing buildings and other improvements with respective dimensions, including floor area and distance from lot lines. The plan shall show scale, north arrow, dimensioned location of the proposed construction and other improvements including floor area. If construction is more than one story, front and side elevations must be submitted and floor areas determined for each story.
4. Completed Certificate of Good Standing –certifies that the subject property and applicant/property owner are in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges.
5. Certified List of Abutters - The applicant shall prepare a listing of abutters, as defined in **§11 of Chapter 40A** of the **General Laws**, for certification by the Board of Assessors.
6. Mailing labels (two sets) - Obtained from the Assessor's Office when requesting the Certified List of Abutters.
7. Assessor's Map – The plan shall show abutting properties within a distance of 300' from the property lines of the subject property.
8. A Zoning Determination Letter or other formal, written determination from any administrative officer, or a statement by an aggrieved party describing an

action or inaction by an administrative officer from which an appeal may be taken pursuant to §2.1.2.1 of the **Seekonk Zoning Bylaw**. This must be included in any applications to the Zoning Board of Appeals. Should more than one application for relief be required, only ONE zoning determination letter would need to be submitted, but it must include all items seeking relief.

9. For appeals, The Zoning Determination Letter or other formal, written determination from any administrative officer, or a statement by an aggrieved party describing an action or inaction by an administrative officer from which an appeal may be taken pursuant to § 2.1.2.1 of the **Seekonk Zoning Bylaws**.

10. Filing Fee - of \$225 or such amount as may be set forth in **Category 45** of the **Seekonk General By-Laws** is required for each appeal and request for Variance and/or Special Permit application. The Board of Appeals reserves the right to assess the petitioner the cost of fees of any consultants engaged by the Board of Appeals under the authority granted in § 2.1.2 of the **Seekonk Zoning Bylaws**. In addition, the applicant is responsible for the cost of the newspaper legal notice(s). The Clerk of the Board shall inform the applicant of the specific cost for the legal notice(s) related to an application.

E. Filing of Appeals:

Appeals filed pursuant to § 2.1.2.1 of the **Seekonk Zoning Bylaws** must be filed within thirty days from the date of the order or decision of the Building Official, Zoning Enforcement Officer, other official, or Board whose decision, order, or inaction is being appealed. Appeals filed after the expiration of the applicable appeal period will be denied.

F. Applications Docketed by Clerk:

1. Each application or petition filed in proper form with the required data, shall be numbered serially, docketed, and shall be placed upon the calendar of the Board by the Clerk thereof after receiving the date of the hearing from the Chairman. The docket numbers shall begin anew on January first of each year and shall be hyphenated with the number of the year in which the application or petition is filed.
2. Applications shall be heard in the order in which they appear on the calendar, except that an application may be advanced for hearing by order of all members of the Board upon good cause shown. Where all applications cannot be disposed of on the day set, the Board may recess from day to day, or until the next scheduled meetings, as it may order. If a matter is continued to a date certain, no new notice, other than the posting of the meeting agenda is required or will be served.

III. HEARINGS

A. Notice:

Notice of each hearing shall be published in a newspaper of general circulation in the Town of Seekonk once a week for two consecutive weeks, as required by the provisions of **§11 of Chapter 40A of the General Laws**. The first publication shall be not less than fourteen days before the day of the hearing. A copy of the legal notice shall also be sent by mail, postage prepaid, to all “parties-in-interest” in accordance with **§11 of Chapter 40A of the General Laws**. The notice shall contain the name of the appellant, petitioner, or applicant; a description of the area or premises, including the street address of the subject property, if any, or other adequate identification of the location thereof; the date, time and place of the public hearing; the subject matter of the hearing; and the nature of the action or relief requested, if any.

B. Hearings to be Public:

All hearings shall be opened to the public and all interested persons may be heard. All hearings will be held at the Town Hall unless otherwise posted.

C. Representation and Absence:

An appellant, petitioner, or applicant may appear in his own behalf or be represented by an agent or attorney. In the absence of any appearance on behalf of an appellant, petitioner, or applicant, the Board may proceed to dispose of the matter on the record before it, together with any additional information, testimony, or evidence as may be presented to the Board by the public or parties in interest appearing at the public hearing.

D. Oath:

All persons wishing to speak for or against a petition shall be sworn in under oath on all testimony that they are to give.

E. Order of Business:

- (1) Chairman will call the meeting to order.
- (2) Chairman will advise the petitioner or opponents of their rights of appeal within twenty (20) days of the posting of the Board’s written decision that they have the right to appeal the Board’s decision pursuant to **§17 of Chapter 40A of the General Laws**.
- (3) Chairman will read the appeal or petition.
- (4) Petitioner, his agent or his attorney, may present his case in chief or arguments against validity of permit issued and call such witnesses as he deems appropriate.
- (5) Petitioner or his agent or his attorney may state his case for relief from the zoning by-laws.

- (6) Opponents/Proponents presentation, if any, and questions by those seeking information.
- (7) Applicant seeking relief from the by laws may speak in rebuttal of opponents presentation but restricted to only such questions raised by opponent.
- (8) Members of the Board may raise questions as they deem necessary or appropriate in the following order: first, the chairman and then, in order of seniority, but under no conditions will a member be suppressed from asking questions of the petitioner or any opponent or witnesses.
- (9) Any reports of Building Inspector, Planning Board, Fire Department or any other town official.
- (10) The Board will take under advisement consideration of the case.

F. Briefs to the Board:

1. It is recommended that every appeal, and every application for a variance or special permit, be supported by a brief setting forth in detail all facts relied upon by the parties. This is particularly desirable in the case of a variance when the following points, based on **§15 of Chapter 40A of the General Laws**, should be clearly identified and factually supported:
 - (a) The particular use of the proposed land or building.
 - (b) The conditions especially affecting the property for which a variance is sought which does not affect generally the zoning district in which it is located.
 - (c) Facts which make up the substantial hardship, financial or otherwise, which result from literal enforcement of the applicable zoning restrictions with respect to the land or buildings for which a variance is sought.
 - (d) Facts relied upon to support a finding that the relief sought will be desirable and without substantial detriment to the public good.
 - (e) Facts relied upon to support a finding that the relief sought may be given without nullifying or substantially derogating from the intent or purpose of the By-Laws.
2. Briefs may be filed at the public hearing or within such time thereafter as may be fixed by the Board, but in no case later than five days after the close of the public hearing.

G. Withdrawal:

An appeal, petition or application may be withdrawn without prejudice by notice in writing to the Board prior to the publication of the legal notice. After the notice of the hearing, an application may be withdrawn without prejudice only by request in writing to the Board, and with the consenting vote of a majority of the panel sitting in

favor of such withdrawal. If the application is withdrawn after publication of the legal notice, the filing fee shall be forfeited and the applicant will be responsible for the payment of the legal notification.

H. Waiver of Requirements:

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

I. Time Limits

In addition to any other referenced time limits, within these Rules; as provided by the **Town of Seekonk Zoning By-Laws**; or **Chapters 40A** and **40B** of the **General Laws** and unless extended by agreement, a copy of any such agreement to be filed with the Town Clerk in order to be valid; the following time limits are applicable to properly filed, complete applications, petitions or appeals in accordance with **Chapters 40A** of the **General Laws**.

1. The Zoning Board of Appeals shall have sixty-five (65) days from the date of filing of a complete application with the Town Clerk to hold a public hearing and ninety (90) days from the date of the public hearing to take final action on an application for a special permit(s).
2. The Zoning Board of Appeals shall have sixty-five (65) days from the day of filing of a complete application with the Town Clerk to hold a public hearing and one hundred (100) days from the date of filing to make a on a petition for a variance(s).
3. The Zoning Board of Appeals shall have sixty-five (65) days from the day of filing of a complete application with the Town Clerk to hold a public hearing and one hundred (100) days from the date of filing to make a decision on an appeal.
4. Any appellant, applicant or petitioner seeking approval of an application by reason of failure of the Zoning Board of Appeals to act within a prescribed or properly extended time frame shall comply with the timing, notice, and filing provisions for asserting such a claim as set forth in **§§9** and **15** of **Chapters 40A** of the **General Laws**. Appeals of any approvals granted due to failure of the Zoning Board of Appeals to adhere to a prescribed time frame shall be appealable pursuant to **§17** of **Chapters 40A** of the **General Laws**

IV. DECISIONS

A. Voting Requirement:

A unanimous vote of a quorum the Board (4 members) shall be necessary in the case of any favorable decision to grant requested relief under the Seekonk Zoning By-

Law. A majority vote of the Board then sitting is sufficient to grant a Comprehensive Permit under §20-23 of **Ch. 40B** of the **General Laws**

B. Notice of Decision:

All decisions shall be made in the form of a written Notice of Decision. The Notice of Decision shall contain the following:

1. The date the decision was rendered;
2. The name of the appellant, petitioner, or applicant;
3. The name and address of the owner, if different from the appellant, petitioner, or applicant;
4. The street address, or other identification, of the subject property;
5. The time, date and place of the public hearing;
6. A statement that the hearing was duly held;
7. Description of the relief or action sought;
8. A statement that the appeal, petition, or application is denied or granted, in whole or in part; and, if any relief is directed, or action permitted or required, a statement thereof, including any conditions imposed;
9. A statement of the basis for the decision, with specific reference to the applicable provisions of **Chapters 40A** or **40B** of the **General Laws** and/or the **Seekonk Zoning By-Law**. In addition to the foregoing, the written Notice of Decision may include a brief account of the testimony and evidence presented. All decisions of the Board of Appeals shall be signed by at least one member of the panel which heard and voted on the application in question.
10. A statement of the appeal period and manner of filing applicable to the decision.

C. Legal Record:

The written Notice of Decision of the Board together with all submitted application materials, exhibits, briefs, and all written or recorded documentation of the proceedings of the Board shall constitute the legal record of an application.

D. Filing Requirements:

The original copy of the Notice of Decision, and all plans referenced therein, shall be filed forthwith with the Town Clerk.

E. Notice:

A copy of the Notice of Decision on any special permit, variance, or appeals application, bearing the stamped time and date of filing with the Town Clerk, shall be issued forthwith to the owner; appellant, petitioner, or applicant if different from the owner; to the parties in interest; and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to

be sent. A copy of the decision shall also be forwarded to the Planning Board and Building Commissioner. Each notice shall specify that appeals, if any, shall be made pursuant to §17 of Ch. 40A of the **General Laws**, and must be filed within twenty days after the written decision is filed in the office of the Town Clerk.

F. Town Clerk Certification and Recording:

After twenty days have elapsed from the date a Notice of Decision is filed with the Town Clerk, an appellant, petitioner, or applicant may ask the Town Clerk to certify that no appeal has been filed or that if such appeal has been filed, that it has been dismissed, denied, or otherwise adjudicated. Any relief granted shall not take effect until a certified copy of the Notice of Decision, with a copy of the application, petition, or appeal, as necessary for approvals granted due to failure of the Zoning Board of Appeals to act within the statutory time limits, has been recorded in the Bristol County Registry of Deeds. It is the responsibility of the owner or the appellant, petitioner, or applicant to make such recordation and to pay the fee for such recording or registering. The Building Official shall not issue a building permit until proof of recording is presented.

G. Reconsideration:

After the meeting has adjourned, there shall be no reconsideration of a decision of the Board, except upon written request of the applicant or a person aggrieved by the decision, filed with the clerk not later than five (5) days after the filing of the decision with the Town Clerk. A motion for reconsideration must be acted upon by those who participated in the hearing and decision, prior to the expiration of the period provided for appeal by **Chapter 40A** of the **General Laws**.

A motion to reconsider must be carried by five (5) concurring votes, and if carried, shall have the effect of restoring the matter precisely as it stood before the decision was voted. A motion to amend the decision will be in order.

H. Reopening of Hearing:

If a reopening is duly voted, the case shall be put on the calendar for a second hearing and notice shall be given as in the case of the original hearings.

I. Reapplication:

No application which has been unfavorably acted upon by the Board of Appeals shall be considered within two years of the date of the decision unless the appellant, petitioner, or applicant submits new evidence which substantially alters the conditions of the appeal, petition, or application and requests and receives the consent to of the Board of Appeals for the early re-application.

J. One Year Limitation on Grants: Extensions:

If an application is granted by the Board, all permits necessary for the prosecution of the work shall be obtained and construction shall be commenced within one (1) year from the date of filing of the Board's decision in the office of the Town Clerk.

Reasonable extension of said time may be granted by the board in the case of an appeal to the Superior Court under **§21 of Chapter 40B** of the **General Laws**, or for other good cause shown. Any written request for an extension must be filed with the Board prior to the expiration of the initial one (1) year period.

K. Appeals from Zoning Board of Appeals

- 1) Appeals from any decision of the Zoning board of Appeals shall be in accordance with **§17 Judicial Review of Chapter 40A** of the **General Laws**.
- 2) Upon receipt of any Notice of any action appealing a decision of the Board pursuant to **§17 of Ch. 40A** of the **General Laws**; the Town Clerk shall send, by mail, a copy of such notice to all "parties-in-interest" as set forth in **§11 of Chapter 40A** of the **General Laws**.

V. POLICIES AND ADVICE

A. Advice:

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

B. Informal Meetings:

The Board of Appeals will not meet informally with applicants or their agents to give preliminary opinions or advice on applications, which may be considered by the Board at a future time. Upon proper request and application, the Building Department will issue a Zoning Certificate should a potential applicant or interested party require a written formal determination by the Building Commissioner with regard to a question pertaining to the **Seekonk Zoning By-Laws**.

C. Other:

For other policies, regulations or procedures refer to the **Zoning By-Law of the Town of Seekonk** as legally adopted and amended from time to time and to **Chapters 40A and 40B** of the **General Laws**.

VI. COMPREHENSIVE PERMITS

- A. In the case of an application for a Comprehensive Permit under §20-23 of Ch. 40B of the **General Laws**, the application contents set forth are minimum requirements. In addition, all requirements as specified under §20-23 of Ch. 40B of the **General Laws** and **760 CMR 56.00** are hereby incorporated by reference in these Rules & Regulations as they may be amended from time to time.
- B. The application for a comprehensive permit shall consist of:
- 1) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. An applicant proposing to construct or rehabilitate four or fewer units may submit a sketch of the matters in §§ **VI. COMPREHENSIVE PERMITS, B.1** and **B.3**, below, which need not have an architect's signature. All structures of five or more units must have site development plans signed by a registered architect;
 - 2) A report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood. This submission may be combined with that required in § **VI. COMPREHENSIVE PERMITS, B.1**, above;
 - 3) Preliminary scaled architectural drawings. For each building the drawings shall be signed by a registered architect, and shall include typical floor plans, typical elevations, and sections, and shall identify construction type and exterior finish;
 - 4) A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas;
 - 5) Where a subdivision of land is involved, a preliminary subdivision plan;
 - 6) A preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants;
 - 7) Documents showing that the applicant fulfills the jurisdictional requirements of **760 CMR 31.01**, that is,
 - (a) The applicant shall be a public agency, a non-profit organization, or a limited dividend organization,
 - (b) The project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program, and
 - (c) The applicant shall control the site;

- 8) A list of requested exceptions from specific local boards to requirements and regulations, including local codes, ordinances, by-laws or regulations.
- 9) The application shall be accompanied by a filing fee based upon the number of proposed housing units of:
 - (a) An Administrative fee of \$250.00
 - (b) For conversion of an existing structure \$50.00 for each dwelling unit up to 10 dwelling units and \$25.00 for each dwelling unit in excess of 10.
 - (c) For dwelling units of new construction \$100.00 for each dwelling unit up to 10 dwelling units and \$50.00 for each dwelling unit in excess of 10.
 - (d) For applications for either conversion or new construction that involve roadways or driveways not within parking areas an additional \$1.00 for each linear foot of roadway.
 - (e) \$25 dollars per parking space for commercial units in mixed use projects.
 - (f) There shall be no filing fee for Public Agencies and Local, and for any project proposed as a Local Initiative pursuant to **760 CMR 45.00**.
 - (g) For conversion projects, the number of dwelling units shall be based on the work affecting the proposed units only. Residential units shall include all uses as listed in the **§4 Use Regulations of Seekonk Zoning By-Laws, Table 4.2.3 Residential Uses**. In mixed use projects commercial uses shall be limited to the uses identified in **§4 Use Regulations of Seekonk Zoning By-Laws, Table 4.2.4** and must be shown, to the satisfaction of the Board, to be supportive of the residential component of the project.

C. Within seven days of filing of the application, the Board shall notify each local board, as identified in accordance with **Subsection B.8** of this section, by forwarding a copy of the entire application together with notice of the Board's public hearing on the application to such board(s) and further requesting recommendations on the application and, that, if it is deemed necessary and helpful, a representative of the local board attend the public hearing.

D. Review Fees

1. If, after receiving an application, the Board determines that in order to review that application it requires technical advice unavailable from municipal employees, it may employ outside consultants. Whenever possible it shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of consultant fees by the applicant. Alternatively, the Board shall, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the Board alone. A review fee may be imposed only if:
 - (a) the work of the consultant consists of review of studies prepared on behalf of the applicant, and not of independent studies on behalf of the Board,
 - (b) the work is in connection with the applicant's specific project, and
 - (c) all written results and reports are made part of the record before the board.

2. A review fee may be imposed only after the Board has complied with the Uniform Procurement Act, §§ 1-19 of Ch. 30B of the General Laws, and the following additional requirements:
 - (a) For services in an amount less than \$25,000.00, the Board shall issue an invitation for bids conforming to the requirements of § 4 of Ch. 30B of the General Laws, or a request for proposals conforming to the requirements of § 5 of Ch. 30B of the General Laws,
 - (b) For services in an amount of \$25,000.00 or more, the Board shall issue a request for proposals conforming to the requirements of §§ 5 and 6 of Ch. 30B of the General Laws.
 - (c) For all services, whether in amounts less than or greater than \$25,000.00,
 - 1) The applicant shall be given five days notice and opportunity to attach written comments to the invitation for bids or request for proposals,
 - 2) At least three bona fide bids or proposals shall be received, and
 - 3) The applicant shall be given five days notice and opportunity to comment on all bids or proposals prior to the selection of the consultant and the award of a contract.
 - 4) A bona fide bid or proposal shall include:
 - i. The name of each person performing the work,
 - ii. The educational and professional credentials of each person performing the work,
 - iii. The work experience of each person performing the work,
 - iv. A description of the work to be performed,
 - v. The hourly rate charged by each person performing the work, and
 - vi. All other expenses to be incurred.
3. All fees assessed pursuant to this section shall be reasonable in light of:
 - (a) The complexity of the proposed project as a whole,
 - (b) The complexity of particular technical issues,
 - (c) The number of housing units proposed,
 - (d) The size and character of the site,
 - (e) The projected construction costs, and
 - (f) Fees charged by similar consultants in the area.
4. As a general rule, the Board will not assess any fee greater than the amount, which might be appropriated from town funds to review a similar city project.
5. Any invitation for bids or request for proposals shall indicate that award of the contract is contingent upon payment of a review fee. If the applicant fails to pay the review fee within ten days of receiving written notification of selection of a bidder, the Board may deny the comprehensive permit.
6. Prior to paying the review fee, the applicant may appeal the selection of the consultant to the Board of Selectmen.
 - (a) The grounds for such an appeal shall be limited to claims that the

consultant selected has a conflict of interest or does not possess the minimum, required qualifications.

- (b) The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field.
 - (c) The required time limits for action upon the application by the Board shall be extended by the duration of the appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.
7. Each review fee shall be deposited in a special account established by the municipal treasurer pursuant to **§ 53G of Ch 44 of the General Laws**.
- (a) Funds from the special account may be expended only for the purposes described in **subsection D.1** of this section, and in compliance with the Uniform Procurement Act, **§§ 1-19 of Ch. 30 of the General Laws**.
 - (b) Within 30 days of the completion of the project or of such time as the applicant formally withdraws the proposal, the applicant shall receive a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest.
 - (c) The municipal accountant shall submit annually a report of the special account to the chief elected body and chief administrative official of the municipality for their review. This report shall be published in the city or town annual report.

G. Public Hearing and Decision

1. The Board shall hold a public hearing on the application within thirty days of its receipt. It may request the appearance at the hearing of such representatives of local boards, as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local boards.
2. The Board shall render a decision, based on a majority vote of the Board, within forty days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received and all information requested by the Board has been received.
3. The Board may dispose of the application in the following manner:
 - (a) approve a comprehensive permit on the terms and conditions set forth in the application,
 - (b) deny a comprehensive permit as not consistent with local needs, or
 - (c) approve a comprehensive permit with conditions with respect to height, site plan, size, shape or building materials that do not render the construction or operation of such housing uneconomic.

4. Appeals

- (a) If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in § 17 of **Ch. 40A** of the **General Laws**.
- (b) If the Board denies the comprehensive permit or approves the permit with unacceptable conditions or requirements, the applicant may appeal to the Housing Appeals Committee as provided in § 22 of **Ch. 40B** of the **General Laws**.

VII. AMENDMENTS

A. Amendment, Revision or Repeal:

1. These Rules and Regulations may be amended, revised, or repealed from time to time by a majority vote of the Board of Appeals however such amendments shall only be adopted by the Board after a public hearing and after notice in accordance with this section. Said notice shall contain the date, time, and place of such public hearing, the proposed changes and, where applicable, the location of texts and maps relevant to the proposed changes available for inspection. Notifications shall be effectuated by publishing such notice in a newspaper of general circulation in the Town, once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days of said hearing.
2. Any amendment, revision, or repeal shall become effective upon filing in the office of the Town Clerk.

B. Severability:

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

C. Robert's Rules of Order

The most current editions of Robert's Rules of Order shall be the authority of all questions of parliamentary law and proceedings not specifically covered by the rules and regulations of the board.

VII. LOCATION OF RULES

The above rules and regulations may be found at the Town Clerk's Office, Town Hall, Seekonk, MA as approved by the Zoning Board of Appeals on October 7, 1968 and amended January 7, 2019.

