

# Chapter 17

## Planning Board

**State law reference** - Municipal planning and Planning Boards, G.L. 41, Secs. 81A-81J; Subdivision Control Law, G.L. c. 41, Secs. 81K-81GG; The Zoning Act, G.L. c. 40A.

**Cross reference** - Zoning generally, Ch. 15. See also Select Board-Administrator Act, Sec. 14.

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### Article I. In General.

Secs. 17-1 to 17-5. Reserved.

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**Article II. Approval of Subdivisions.****Sec. 17-6. General Requirements.**

(a) *Suitability of land for building; street system generally; utility development.* In approving subdivisions, the Planning Board, hereinafter called the board, requires that the land shall be suitable for building purposes without danger to health, that the proposed streets shall compose a convenient system with adequate street connections to insure free circulation of traffic and that access for future street extensions shall be made, together with such provision of street development and utilities as in its opinion will justify the subdivision. If adjoining property is not subdivided but is, in the opinion of the board, suitable for ultimate development, provision shall be made for proper projection of streets into such property by continuing appropriate streets within the subdivision to the exterior boundary thereof.

(b) *Streets, sidewalks, etc., requiring exceptional circumstances for approval.* Dead end streets, streets of less than fifty feet in width, grades of less than eight-tenths of one percent or more than nine percent, and sidewalks of less than five feet in width or the omission of paved sidewalks, will be approved only under exceptional circumstances.

(c) *Turnarounds on dead end streets.* Where dead end streets are permitted, turnarounds shall have a minimum diameter of ninety feet.

(d) *Street names.* New street names shall not conflict with names now in use and shall have the approval of the chief of the Fire Department and chief of police.

(e) *Specifications for road and utility construction.* All road and utilities construction must conform to the requirements of the subdivision construction specifications of the Public Works Department as approved by the Planning Board.

1. The developer will be responsible for performing all work necessary for and related to the energizing of street lights, including, but not limited to, trench repair, and shall provide surety for same.
2. No surety reduction request will be considered until such time as the binder course of bituminous concrete is in place and acceptable to the Town Engineer. (5/1/85)

(f) *Construction of inactive sewers.* Subdividers may be required to construct inactive sewers, including house laterals in areas that the Planning Board feels it is in the best interest of the town to do so.

(g) *Compliance with zoning bylaw.* Subdivisions shall comply with the zoning bylaw. Unless the provisions of the zoning bylaw and other bylaws are complied with, no building permit can be issued.

(h) *Drainage systems.* Provision for the adequate disposal of surface water intercepted or collected by catch basins shall be made in such a manner that no flow will be

conducted over town ways or over the land of others unless an easement in proper form is obtained permitting such drainage.

(i) *Conveyance of utilities and easements to the town.* Before the Planning Board will release the interest of the town in a performance bond or deposit, or in the case of approval with covenant, issue a release of covenant, the applicant shall convey to the town, without cost, in a form satisfactory to the board (form can be obtained at the office), valid unencumbered title to the water mains and appurtenances, and sewers, and prescribed easements therefor.

(j) *Power and communication facilities generally.* All power and communication facilities shall be designed to be underground with only designated street light standards and emergency fire, police and civil defense boxes allowed above ground. No above-ground wiring shall be made between structures. The extension of the fire department, police and civil defense and any other emergency communications shall be according to the "Requirements for Underground Fire Alarm Construction of the Fire Department for the Town of Stoneham," which specifications are hereby incorporated by reference and made part of the rules and regulations of the Planning Board.

(k) *Number of dwelling buildings allowed on lot.* Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision or elsewhere in the town without the consent of the Planning Board. Such consent shall be conditional upon the providing of municipal services and adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision, including any provision pertinent to a subdivision contained in the rules and regulations of the Planning Board.

(l) *Road and hydrant required where rules waived.* In any case, for both subdivisions and sites wherein the Planning Board consents to a waiver of its rules and regulations in regard to more than one building on a lot, if performance of the construction of ways and the installation of municipal services are secured by a bond, a temporary roadbed satisfactory to the town engineer of no less than nine inches of gravel grade shall be constructed and maintained from an existing street to a proposed structure, and a hydrant satisfactory to the fire chief shall be in working condition within two hundred feet of said structure, before a building permit may be granted for such structure.

(m) *Location of underground electrical wiring and telephone communication facilities.* Location of underground electrical wiring and telephone communication shall be between the grass and sidewalk in the area shown as grass plot unless otherwise noted on the plan prior to subdivision approval.

(n) *Location of gas lines.* The subdivider must provide the town engineer with a plan indicating exact location of gas lines during construction.

(o) *Projection of streets into nonsubdivided adjoining areas.* If adjoining property is not subdivided but is, in the opinion of the board, suitable for ultimate development,

provision shall be made for proper projection of streets into such property by continuing appropriate streets within the subdivision to the exterior boundary thereof.

(p) *Curbing.* V.A.-4 18" x 6" granite curbing shall be required on both sides of all roads within the subdivision.

(q) *Landfill.*

(i) Before approval of a definitive plan, in which the placement of fill or the removal of fill or other material will be in excess of two hundred (200) cubic yards or will change the drainage characteristics of the land so as to detrimentally affect abutting land, the applicant shall provide the Board with plans prepared and stamped by a registered civil engineer showing the existing topography, proposed finished grade, required retaining walls, proposed footings (if any), as well as plans for drainage and control of run-off and erosion. Plans shall be reviewed by the Town Engineer, however, responsibility for the plan and design, and all consequences resulting therefrom, remain with the applicant, his engineer and contractor(s).

Upon completion, the elevation of lots, may vary from the approved subdivision plan by no more than two feet, plus or minus, if in the opinion of the Planning Board said change in elevation shall not change the drainage characteristics of the land so as to detrimentally affect abutting land, nor endanger or threaten property or the safety of the public. The elevation of a road, upon completion, may vary from the approved subdivision plan by no more than six (6) inches, plus or minus if said road complies with all other applicable construction specifications of these Regulations, and if in the opinion of the Planning Board said change in elevation shall not detrimentally affect drainage of the abutting properties.

(ii) The placement or removal of any fill or other material, shall not change the drainage characteristics of the land so as to detrimentally affect abutting land, or endanger or threaten property or the safety of the public.

(iii) Placement of any fill containing, concrete, metal or steel, brick, block, plaster, wood lathe, bituminous, or other building materials, trees, stumps, heavy metals, hazardous material or other waste products, is prohibited, except for the following if mixed with clean material and compacted in accordance with the Massachusetts State Building Code:

- Non-reinforced concrete slabs if they are broken into pieces with the greatest surface area no greater than six (6) square feet in area;
- Non-reinforced concrete blocks, curbing or other configurations with the longest side dimension no greater than three (3) feet;
- Brick, either in pieces or in cemented aggregations, of three (3) feet or less in every direction.

(iv) The Board may request that the Board of Health determine whether a chemical analysis or other appropriate test of the fill shall be required. The cost of such analysis shall be borne by the developer.

(v) All fill operations shall be carried out in a safe manner.

(vi) The Planning Board shall have authority to require the removal of any fill placed in violation of this section. All costs of removal shall be borne by the violator(s).  
(5/3/89)

### **Sec. 17 - 7. Procedures.**

(a) *Prerequisites to board action generally.* The board will act upon applications for approval of subdivisions only when submitted on an approved form, and accompanied by a plan, street profile plan, contour map if required, construction specifications as hereinafter set forth and fee as set forth in Section 17-10. The applicant must state deed restrictions, if any.

(b) *Public hearing.* Before approval of a subdivision, a public hearing shall be held by the board, notice of which on an approved form shall be given by the board, by publication in a Stoneham newspaper of general circulation in the town, at least fourteen days before such hearing; and by mailing a copy to all owners of abutting property, (as appearing on the most recent tax list), and such others as the board may designate.

All expenses for advertising required by the statutes, and such notifications to abutting owners and others as shall be required by the board, shall be paid by the applicant.

(c) *Approval, modification or disapproval by board.* Plans and specifications will be approved, modified and approved or disapproved by the board.

(d) *Agreement to construct ways, install sewers, etc.* The applicant shall state in his application his agreement to (1) construct the ways in the subdivision and (2) to install such sewer, water and drainage as shall be deemed necessary by the board. Specifications covering the construction of ways, drainage, water and sewer structures shall be obtained from the superintendent of public works and shall be part of the application. The applicant shall state his intention of conforming with the applicable specifications.

(e) *Action by Board of Health.* A copy of the subdivision plan shall be submitted by the Planning Board to the Board of Health for a written report of approval or disapproval of said plan. If disapproved, reasons shall be stated in writing by the Board of Health. Approval by the Planning Board may be granted by notation on the plan of lots disapproved for building by the Board of Health.

(f) *Initialing of plans by town engineer.* All subdivision plans shall be initialed by the town engineer to indicate approval of the final plan as to engineering details and adherence.

(g) *Bonding generally.* Before approval of such a plan, the applicant shall file with the board a duly executed bond in form satisfactory to the board, to secure performance of all conditions and requirements contained in the application.

The penal sum of said bond shall be in an amount deemed satisfactory as estimated by the town engineer and certified by the superintendent of public works for construction of the ways, and installing the utilities shown on said plan, and the applicant shall, except as hereinafter provided, provide surety on said bond, either by an indemnity or surety company satisfactory to the board, or by depositing with the town treasurer cash or United States Government bonds in an amount equal to the penal sum of the bond.

(h) *Agreement in lieu of bonding.* In lieu of the surety or security provided above and upon the request of the applicant, the board may accept a voluntary agreement which shall provide that the applicant shall not apply for or take out any building permit or undertake any construction or reconstruction of any building within the subdivision until all construction of ways, drainage, water and sewer, agreed upon in the application, shall be completed and a certificate of approval issued to the applicant and the building inspector of the town. This voluntary agreement shall bind the heirs, executors, administrators, assigns and grantees of the applicant and shall be assented to by all mortgagees of the applicant's property and shall be recorded by the applicant forthwith in the Middlesex South District Registry of Deeds.

After approval by the Planning Board of a subdivision plan, no building permit shall be issued and no connection to any utility or way open to the public shall be allowed until a receipt of such plan from the Registry of Deeds has been filed with the Planning Board. A receipt or certified copy of all required recorded easements, agreements, covenants or documents pertaining to such plan shall be required.

(i) *Bond for preservation of topography, removal of sod, etc.* In any subdivision where in the opinion of the board topographical or natural points should be preserved or where the removal of sod, loam, sand, clay, gravel or stone is deemed necessary, the Planning Board may require a separate bond with surety to enforce any conditions set by the board.

(j) Automatic rescission.

(1) *Conditions generally:*

- a. The automatic rescission of the approval of a subdivision shall ensue if the ways and municipal services provided for in the plan as approved are not installed by the applicant within a specified time period mutually agreed upon by the applicant and the Planning Board of the town.
- b. If by mutual agreement between the Planning Board and the applicant the original date, during which the construction of ways and installation of municipal services must be completed, is extended to a

later date, then that later date shall be the effective date beyond which automatic rescission shall apply, upon failure to perform.

(2) *Notice and recording of conditions:*

- a. Notice will be given by recording such conditions (1)a. and (1)b. above for the automatic rescission of subdivision approval with the South Middlesex Registry of Deeds by endorsement of said conditions, as they apply to a particular subdivision, on the plan as approved, or by reference on the plan to the filing with the town clerk of a separate document wherein such conditions are specified.
- b. Conditions (1)a. and (1)b. above for the automatic rescission of subdivision approval, as they apply to a particular subdivision, will be included in any covenant, bond or surety agreement, general agreement, or special agreement filed with the town clerk as a portion of the documents required to be so filed for subdivision approval.
- c. When an extension of the time period for the construction of ways and the installation of municipal services has been mutually agreed upon by the Planning Board and the applicant, the Planning Board shall so certify and record the time period for the construction of ways and the installation of municipal services may be endorsed upon the approved plan at the South Middlesex Registry of Deeds, if so required, upon presentation by any interested party of a certification by the town clerk that said extension of time has been agreed upon.
- d. If the construction of ways and the installation of municipal services has been completed within the original time, or extended time mutually agreed upon, certification of same shall be filed forthwith with the town clerk by the Planning Board, and the town clerk may so certify to any interested party for endorsement upon the plan filed at the South Middlesex Registry of Deeds.
- e. Tracings and blueprints. Two cloth tracings and four blueprints of each plan referred to in Subsection (a) of this section shall be filed with the application.

**Sec. 17-8. Form of Application.**

Stoneham, MA ..... 20\_\_

Planning Board  
 Stoneham, MA

Gentlemen:

The undersigned applicant desires to subdivide a parcel of land and to open in the Town of Stoneham ways for public use. Said parcel of land is described as follows:

The proposed ways run from to all as more particularly described and bounded on the plat filed herewith and made a part of this application and agreement. The undersigned hereby applies for approval of said plat by the Board and hereby covenants and agrees with the Town of Stoneham upon approval of the plat:

(1) To install the utilities and complete the ways as finally approved by the board within \_\_\_months from the date hereof and

(2) To install the drainage, water and sewer structures as shown on the approval plat and to complete and construct the said ways to the lines and grades as shown on the approved plat and in accordance with the specifications of the superintendent of public works, which are attached hereto and hereby made a part of this agreement.

(3) To conform to all laws, bylaws, rules and regulations of the Town of Stoneham pursuant to this subdivision.

(4) The following are all the mortgages and other liens or encumbrances on the whole or any part of the above described property.

(List mortgages, etc., here)

This agreement shall be binding upon the heirs, executors, administrators, and assigns—successors and assigns—of the undersigned.

\_\_\_\_\_  
 Signature of Applicant  
 Assented to  
 Mortgagees

**Sec. 17-9. Survey and Plans.**

- (a) *Survey*—All surveying shall conform to land court requirements, Class A.
- (b) *Plans*—*Drawing specifications*. Plans shall be drawn:

- (1) To scale of 1 inch = 40 feet.
  - (2) With black waterproof ink, on sheets of tracing cloth eighteen by thirty and one-fourth inches, with one-half inch border, except on the left side which shall be two and one-fourth inches.
  - (3) With plan and profiles for one street only shown on one sheet.
- (c) *Same—Contents.* Plans shall show the following information:
- (1) A title stating the date, scale, bench mark, name and address of applicant and of surveyor, name of subdivision, if any, names of proposed streets, and the zoning classification.
  - (2) True North Point.
  - (3) Location and ownership of abutting property.
  - (4) Location and character of all rights-of-way or other easements existing or proposed within the plan.
  - (5) Lengths and bearings of plan boundary lines with a table of traverse closure.
  - (6) Lengths and bearings of all subdivision lot lines, including lot frontages on the streets.
  - (7) Lengths and bearings relating to all street line data.
  - (8) Lengths, radii, tangent and central angles of all curves in lot lines and street lines.
  - (9) Curves of street side lines at street intersections, showing a radius of not less than twenty feet, except where the angle of intersection varies more than ten degrees from a right angle, in which case the radius of the curve connecting the acute angle may be less and the opposite radius must be correspondingly greater.
  - (10) Location and width of all adjacent town streets or private ways, with names.
  - (11) Monuments at all points of curvature and changes in directions of street side lines or where designated by the Planning Board.
  - (12) Areas of lots with lot numbers, areas of other adjoining land of applicant not included in the subdivision, areas and names of proposed streets with the subdivision plan.
  - (13) All natural objects and surfaces such as brooks, waterways, natural drainage courses, large boulders, stone walls, etc., within the boundaries

of the subdivision and outside the subdivision if they affect the land being developed.

- (14) If the topography is of such a nature that the board cannot readily determine the suitability of any land for subdivision, a contour map may be required, together with the plan and profile. Said contour map shall show existing elevations every ten feet.
- (15) Size and location of existing proposed water mains and valves as determined by the engineer and approved by the superintendent of public works. Location of hydrants shall be determined by the chief of the Fire Department acting in consultation with the town engineer.
- (16) Size and location of existing and proposed sewer pipes as determined by the engineer and approved by the superintendent of public works.
- (17) Size and location of existing proposed surface drains, designed by a registered civil engineer or surveyor retained by the developer who shall accept responsibility for their design.
- (18) The registered surveyor or registered professional engineer responsible for the work and engineering detail of a plan shall affix his stamp to all subdivision plans certifying the plan as his work.
- (19) The following statement shall be placed on tracing below the title: "We hereby certify that all laws applicable to the within plan have been complied with".

Date \_\_\_\_\_

Approved by

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Planning Board, Town of Stoneham

This is to certify that no appeal has been filed within the time prescribed by law.

Date \_\_\_\_\_

Signed \_\_\_\_\_

Town Clerk

- (20) Upon completion of the project and before final acceptance by the town, the developer and/or builder shall submit one set of “as built” mylars to the town engineer. The “as built” mylars shall reflect the actual construction of all utilities and roadway improvements. They shall be prepared by a Registered Land Surveyor and/or Registered Engineer, stamped and signed.

(d) *Same—Plat plan.* A composite plot plan of the complete subdivision shall be submitted with the street plan and profile.

(e) *Same—Scale Plan.* The subdivider shall submit a separate smaller scale plan showing the relation of the subdivision to the general area.

(f) *Same—Profile plans.* Profile plans shall be drawn with:

- (1) A horizontal scale of one inch equals forty feet.
- (2) A vertical scale of one inch equals four feet.
- (3) Existing center line in fine black solid line.
- (4) Existing right side line in fine black dotted line.
- (5) Existing left side line in fine black dash line.
- (6) Proposed center line grades in solid black lines, with figures showing grade elevations at every fifty foot station, except in vertical curves which shall be at every twenty-five foot station.
- (7) All existing intersecting walks and driveways shown on both sides.
- (8) Elevations referred to the base in use by the town.
- (9) Rates of gradient shown by figures.
- (10) Size and location of existing and proposed water mains and their appurtenances, sewer pipes and their appurtenances and surface drains and their appurtenances.
- (11) The location and elevation of the sills of existing buildings within fifty feet of the sidelines of proposed streets shall be shown on the profile plans.

**Sec. 17-10. Fees and Expenses.**

*Fees and expenses.* All applications shall be accompanied by a check payable to the Town of Stoneham. Such fees shall be used to defray administrative costs relative to this appeal.

(a) *Fees.* The following fees shall be required of applicants to partially defray the costs incurred by the Town of Stoneham for plan review, engineering and inspection. All fees shall be paid upon submission of the application and plan, except the fee for post-approval inspection (2b).

1. *Preliminary Plan.*

- a. The fee for a Preliminary Plan shall be two hundred dollars (\$200) plus fifty dollars (\$50) per lot as shown on the Preliminary Plan.
- b. The per-lot fee paid upon submission of the Preliminary Plan shall be subtracted from the per-lot fee for the subsequent Definitive Plan, if submitted.

2. *Definitive Plan.*

- a. *Plan Review* - The fee for a Definitive Plan prior to approval shall be five hundred (\$500) plus fifty dollars (\$50) per lot as shown on the Definitive Plan.
- b. *Post-Approval Inspection* - The fee for review of work performed pursuant to an approved definitive plan shall be two hundred dollars (\$200) per lot as shown on the definitive plan, which fee shall be paid subsequent to approval, but prior to endorsement of the plan.

3. *Extension and Automatic Rescission.*

- a. The fee for an extension of time beyond six months or any subsequent extension of time beyond an initial extension, shall be one hundred dollars (\$100) plus fifty dollars (\$50) per lot, to partially defray the additional expense to the Town of Stoneham. This fee may be waived by the Planning Board, in whole or in part, in accordance with the requirements of G.L. c. 41, sec. 81R and if in the opinion of the Planning Board it is documented, by the applicant for an extension, that the Town will not incur such additional expenses.
- b. The fee for a Definitive Plan submitted after an automatic rescission shall be the same as required for a Definitive Plan pursuant to paragraph 2 above.

4. *Approval Not Required Plan.* The fee for an Approval Not Required Plan shall be one hundred dollars (\$100).

5. *Additional Expenses.* Additional expenses above and beyond those normally incurred, as clearly documented by the Planning Board, shall be borne by the applicant.
- (b) *Expenses.*
1. All expenses for advertising, and public and legal notice, including notice to abutting owners, and any additional costs related thereto, shall be borne by the applicant.
  2. The cost for the drafting of an instrument by the Town of Stoneham, transferring rights in land, including, but not limited to an easement granted by the applicant to the Town, shall be borne by the applicant, and shall be a minimum of one hundred dollars (\$100). Applicants are free to have their own counsel draft such instruments, subject to the approval of the instrument by the Planning Board.

#### **Sec. 17-11. Review Fees for Outside Consultants.**

(a) When reviewing an application for preliminary or definitive subdivision plan approval or modification thereof (hereinafter also referred to as a “proposal”), the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed subdivision development or because of its potential impact. The Board may require that applicants pay a review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

(b) In hiring outside consultants, the Board may engage engineers, planners, traffic consultants and/or other appropriate professionals who can assist the Board in analyzing a proposal to ensure compliance with all relevant laws, bylaws and regulations.

(c) Funds received by the Board pursuant to this section shall be deposited with the town treasurer who shall establish a special account for this purpose in accordance with the provisions of chapter 44, section 53G of the General Laws. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the subdivision approval or modification.

(d) Review fees may only be spent for services rendered in connection with the specific proposal from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board’s review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available

to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

(e) Any applicant may take an administrative appeal from the selection of an outside consultant to the Select Board. 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. 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. The required time limit 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 regarding the appeal is made by the Select Board within one month following the filing of the appeal, the selection made by the Planning Board shall stand.

### **Sec. 17-12. Adequate Access from Public Way.**

*Improvements to way of access.* Where the street system within a subdivision does not connect with or have, in the opinion of the Planning Board, adequate access from a City, County or State (public) way, the Planning Board may require, as a condition of approval of a plan, that the developer provide adequate access by creating a new access road, or by making physical improvements to any existing way deemed inadequate by the Board. Such improvements shall be made in accordance with the provisions of section IV of these regulations.

*Dedication of Land for Purpose of Improving Access.* Where the physical condition or width of a public way from which a subdivision has its access is considered by the Planning Board to be inadequate to carry the traffic expected to be generated by such subdivision, the Planning Board may require the developer to dedicate a strip of land for the purpose of widening the abutting public way to a width at least commensurate with that required within the subdivision. Any such dedication of land for the purpose of widening the way and any such work performed within such public way shall be made only with permission of the governmental agency having jurisdiction over such way, and all costs of any such widening or construction shall be borne by the developer.

## **Article III Special Permit Granting Authority – Rules and Regulations.**

### **Sec. 17-13. Planning Board Authorities and Duties.**

The Planning Board of the Town of Stoneham is empowered to hear and decide special permits by Section 7.3.2.2 of Chapter 15 of the Stoneham Town Code, Zoning Bylaw, as authorized and regulated by Chapter 40A of the General Laws of Massachusetts.

**Sec. 17-14. Officers.**

The officers referred to herein shall be the officers of the Planning Board.

*Chairman: Powers and duties.* Subject to these rules, the chairman shall decide all points of order, unless overruled by a majority of the board in session at the time. The chairman shall appoint such committees as may be found necessary or desirable.

In addition to powers granted by general laws and local ordinances and subject to these rules and further instructions of the board, the chairman shall transact the official business of the board, supervise the work of the clerk, request necessary help, direct the work of all subordinates, exercise general supervisory power. The chairman shall at each meeting report all official transactions that have not otherwise come to the attention of the board.

*Vice-Chairman.* The vice-chairman shall act as chairman in case the chairman is absent, disabled, or otherwise unable to perform his/her duties.

*Clerk:* Clerk-stenographer of the Stoneham Planning Board. Subject to the direction of the board and its chairman, the clerk shall perform all of the clerical work of the board including but not limited to all correspondence of the board; send all notices required by law and the rules and orders of the board; receive and scrutinize all applications for compliance with the rules of the board; keep dockets and minutes of the board's proceedings; compile all required records, maintain necessary files and indexes; call the roll at all board meetings and give information to the public about the functions of the board.

**Sec. 17-15. Meetings.**

*Quorum.* A quorum as a Special Permit Granting Authority only, shall consist of four members. No member, not present throughout the entire hearing, shall vote on a special permit before the board. In the case of the lack of a quorum at a hearing, the chairman shall reschedule the hearing. The clerk shall notify all abutters and other persons who may have displayed an interest in the matter before the board and who have filed their names and addresses with the clerk, and in the case of those not legally entitled to notification as an abutter, a self-addressed envelope first class postage prepaid, of the time and place of the rescheduled hearing. There shall be no additional fee charged to the petitioner in the case of a rescheduled hearing due to the lack of a quorum.

*Regular Meeting.* Unless ordered otherwise by the board, regular meetings shall be held every other Wednesday or at least monthly on a Wednesday at 7:30 P.M. with hearings scheduled as directed by the board. These shall be at the same time and place as the regularly scheduled planning board meetings.

*Special Meetings.* Special meetings may be called by the chairman or any three members of the board as required to effectively carry out the business of the board.

**Sec. 17-16. Applications.**

*Application forms.* Every application for action by the board shall be made on the official form as approved by the Planning Board. These forms shall be furnished by the clerk upon request. Any communication, purporting to be an application, shall be treated as mere notice of intention to seek relief, until such time as it is made the official application form. All information called for by the form shall be furnished by the applicant in the manner prescribed.

Acceptance of applications and scheduling of a Public Hearing.

- (a) Five copies of all applications and plans required by the rules and regulations shall be submitted at the time of application.
- (b) No hearing shall be scheduled until a proper application, plans and required fee are received by the board.
- (c) The petitioner shall give written notice to the town clerk in the form of a copy of a valid application by delivery; registered mail, postage prepaid; or by certified mail, return receipt requested prepaid; that he has submitted an application for a special permit to the board.
- (d) The board shall schedule a public hearing within sixty-five (65) days of receipt of a properly submitted application, plans and required filing fee as required by Chapter 40A, Section 9 of the Massachusetts General Laws.
- (e) No application and accompanying plan shall be deemed to have been properly submitted if they are deficient in their compliance with these rules and regulations and any applicable requirements of the zoning bylaw, Chapter 15, or Chapter 40A of the Massachusetts General Laws.

**Sec. 17-17. Plans.**

*Plan.* A plan of the locus shall accompany the petition at the time of filing in the number called for in Article 2 above.

- (a) General plan requirements:
  - (1) Site, name of identification by boundaries, north point, date, scale used in preparation of plan.
  - (2) The size of the plan shall be a minimum of 8 ½" x 11" or larger, not to exceed 24" x 36" drawn to scale.
  - (3) The name and address of the owner, petitioner if different, engineer, and/or surveyor, and in the case of a registered professional engineer or registered surveyor a certification as to the accuracy of all

dimensions and validity of property lines as shown on the plan shall be included.

- (4) The names, widths and streetlines of existing streets, zoning districts applicable to the property and abutting properties, and the names of record owners from the most current assessors' list of all properties abutting subject property shall be shown.
  - (5) The dimensions of the lot, percentage of the lot covered by the principle and accessory structures or alterations with distances from boundaries shall likewise be shown and reference to any variances or exceptions which may indicate smaller minutia than likewise called for by the zoning bylaw shall be indicated.
  - (6) All off-street parking requirements, off-street loading regulations, and screening and landscaping standard as outlined in Chapter 15 of the zoning bylaw, Section 6.3, 6.4, 6.5 respectively shall be shown on said plan.
  - (7) All performance standards required in Chapter 15, Section 6.8 of the zoning bylaw shall be shown where feasible on said plan.
- (b) Requirements relating to residential special permits:
- (1) Cluster development - all requirements of Chapter 15, Section 5.3.9 relative to cluster development shall be included on said plan.
  - (2) All plans for special permit in residential areas shall show dimensions having to do with proper compliance with setbacks, heights and frontage required by Chapter 15, zoning bylaw.
  - (3) Where a residential special permit will also entail subdivision approval, nothing herein shall prevent the petitioner from including all details called for by Chapter 17 of the Stoneham Town Code and the rules and regulations of the Stoneham Planning Board and the construction standards of the Town of Stoneham.
- (c) Non-residential special permit plans-In addition to the general requirements contained herein, the following shall be shown:
- (1) Existing buildings and structures.
  - (2) Proposed buildings and structures.
  - (3) Existing and proposed driveways and openings for same.
  - (4) Service areas.
  - (5) Facilities for sewage, refuse.
  - (6) Other open uses.

- (7) Facilities for surface water drainage.
- (8) Fences and retaining walls.
- (9) Sidewalks and pedestrian ways.

(d) Other requirements: The board may also require the showing of locations and sizes of existing utilities and services including but not limited to sewers and water mains and electrical and other utilities, fire boxes, hydrants and existing above ground utilities within or adjacent to the site and the showing of the location of structures on properties adjacent to the site and location of structures on properties abutting the property if it deems that such additional information is necessary for the board to reach a decision.

(e) Additional provisions: Nothing herein shall prevent a petitioner from including other information, in a form not in conflict with the requirements of this board, which may be required for submission of this plan to another board or department having jurisdiction over another aspect of the proposed subject.

#### **Sec. 17-18. Errors in Filing.**

When in its opinion its ability to reach a decision on the basis of all material facts has not been substantially impaired, the board may waive any failure to comply with the exact technical requirements for filing. Whenever an affirmative decision is rendered on a petition, any such failure to comply shall be deemed to have been waived.

#### **Sec. 17-19. Review Fees for Outside Consultants.**

(a) When reviewing an application for a special permit, the Planning Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impact. The Board may require that applicants pay a review fee consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application.

(b) In hiring outside consultants, the Board may engage engineers, planners, traffic consultants and/or other appropriate professionals who can assist the Board in analyzing a proposal to ensure compliance with all relevant laws, bylaws and regulations.

(c) Funds received by the Board pursuant to this section shall be deposited with the town treasurer who shall establish a special account for this purpose in accordance with the provisions of chapter 44, section 53G of the General Laws. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been collected from the applicant.

Failure of an applicant to pay a review fee shall be grounds for denial of the subdivision approval or modification.

(d) Review fees may only be spent for services rendered in connection with the specific proposal from which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

(e) Any applicant may take an administrative appeal from the selection of an outside consultant to the Select Board. 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. 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. The required time limit 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 regarding the appeal is made by the Select Board within one month following the filing of the appeal, the selection made by the Planning Board shall stand.

#### **Sec. 17-20. Hearings and Notice of Hearings.**

*Legal notice.* It shall be the responsibility of the petitioner to deliver the notice of appeal to the local paper and pay any cost for the ad.

*Notice.* Notice of hearings shall be given as required by the provisions of Massachusetts General Laws, Chapter 40A.

*Hearings to be public.* All hearings and meetings of the board shall be open to the public in accordance with Massachusetts General Laws, Chapter 39.

*Appearance and Absence.* The applicant shall appear in person in his own behalf or be represented in person by an agent or attorney. In the absence of any appearance on behalf of the applicant as to the cause of such absence, the board shall define the procedure to be followed and the fee, if any, to be paid by the appellant in order to reschedule the hearing.

*General order of business.*

- (a) Introduction of the board and outline of hearing scheduled.
- (b) Reading of legal notice by the chairman.
- (c) Applicant's presentation.
- (d) Other remarks favorable to applicant.

- (e) Comments and presentation in opposition to applicant.
- (f) Additional comments by all parties until all relevant issues have been clarified.

Questions from members of the board may be raised at any time during the hearing and shall take precedence over comments or questions by other parties.

*Presentation to the board.* It is recommended that every petition for a special permit be supported by a statement setting forth in detail all facts relied upon by the petitioner in support of his petition and petitioners are referred to Section 7.4 Chapter 15, zoning bylaw regarding special permits, conditions for approval of a special permit and are reminded that the board may only issue special permits in conformity thereof.

### **Sec. 17-21. Disposition by the Board.**

*Voting requirement.* The concurring vote of at least four members of the board shall be necessary to effect the issuance of a special permit. A majority vote of the board shall be necessary with regard to all other matters before the board, except those specifically regulated by statute or bylaw to the contrary.

In its deliberations and decisions relative to special permits, the board shall be particularly mindful of Section 7.4 Special Permit, conditions for approval of special permits of the Stoneham Town Code, Chapter 15, Zoning Bylaw.

*Withdrawal without prejudice.* Any application may be withdrawn by notice in writing to the clerk at any time prior to the hearing by the board or by verbal statement to the board immediately following the reading of the legal notice. Any motion for withdrawal after this point shall require the concurrence of four members of the board.

*Reconsideration.* No vote will be reconsidered after adjournment of the meeting at which such vote was passed unless the petitioner files in writing with the chairman within two business days a statement indicating the reasons why the board should reconsider their initial voting. Such statement should indicate either mistake, inadvertence or misunderstanding on the part of the board members as grounds for reconsideration. The reconsideration will be taken up at the next regularly scheduled meeting and the reconsideration of the vote shall be approved only upon the concurrence of four members. Any board member may move the board to vote to reconsider its vote and said motion shall be allowed only upon the concurrence of four members. A reconsideration shall not be granted based upon the introduction of new evidence or information. Once the decision has been filed with the town clerk, a request for reconsideration cannot be heard.

*Reapplication.* No petition shall be reheard within two years from the date of final unfavorable action by the board except in accordance with Chapter 40A, Section 16 of the Massachusetts General Laws.

*Extension of time.* Upon the written request of the applicant or by mutual consent of the board and the applicant, an extension of time may be agreed upon for the board to take final action. Notice of any such extension shall be filed forthwith by the clerk of the board with the town clerk.

*Limitation on special permits.* All special permits shall lapse within a specified period of time, not more than two years, as provided in the General Laws, Chapter 40A, Section 9. All special permits shall be written to include these restrictions.

*Recommendations from other boards and departments.* The Planning Board, as Special Permit Granting Authority, may within the time frame for acting upon a special permit application as defined in Chapter 40A, Section 9, of the General Laws, request and receive recommendations from other town departments to assist the board in reaching its decisions.

These boards and departments may include, but not be limited to, the Board of Health, Conservation Commission, Inspector of Buildings, Fire Department, Police Department, Public Works and Town Engineering Department.

#### **Sec. 17-22. Opinions and Recommendations.**

Any advice, opinion, or information given by any board member or the clerk, or any other official or employee of the Town of Stoneham shall not be binding on the board. Because of the annoyance caused by individuals appealing personally to members of the board, it is declared to be the policy of the board to discourage any such personal appeals. When deemed necessary by the chairman or by a majority of the board, the legal opinion of town counsel may be solicited and presented to the board on matters under its consideration.

Should any board member offer his/her opinion or advice on any matter regarding appeal board business, it shall be incumbent on him/her to make it known that the opinion is a personal one and not an opinion of the Planning Board, as Special Permit Granting Authority.

#### **Sec. 17-23. Authority and Adoption.**

These rules and regulations are adopted pursuant to Chapter 40A, Section 9 of the General Laws.