

RECEIVED
TOWN OF MIDDLETON
2023 AUG 15 PM 12:22

2023 AUG 15 PM 12:22

TOWN OF MIDDLETON

TOWN CODE Part II

CHAPTER 260

ZONING BOARD OF APPEALS RULES

ADOPTED JULY 27, 2023

EFFECTIVE SEPTEMBER 1, 2023

A handwritten signature in blue ink, reading "Richard J. Benevento", is written over a horizontal line.

RICHARD J. BENEVENTO, CHAIRMAN

260-1. AUTHORITY

The Middleton Zoning Board of Appeals, pursuant to the provisions of Massachusetts General Laws, c. 40A, §12 (The Zoning Act); c. 40B, §§20-23 (Comprehensive Permits); and c. 41, §81Y (Subdivision Control Law) hereby adopts the following Rules governing the organization, procedures and conduct of the Board, and governing review and action on special permits, variances, site plan review, appeals and comprehensive permits.

260-2. ORGANIZATION

A. Members and Officers

- i. The Zoning Board of Appeals shall consist of five regular members and two alternate members, all appointed by the Select Board, per Section 6 of the Town Charter. Vacancies shall be filled at a regular meeting of the Select Board. The regular members shall elect all officers of the Zoning Board annually, following the confirmation of the annual appointee; officers consist of a Chair, Vice Chair, and Clerk. The regular members shall also adopt and/or amend these Rules and Regulations at a regular meeting by majority vote, according to MGL c. 40A§12. Alternate members do not participate in these acts. The Chair of the Zoning Board of Appeals shall preside at all hearings and meetings.
- ii. The Chair, subject to these rules, shall decide all points of order or procedure, unless otherwise directed by a majority of the Board in session at that time.
- iii. The Vice-Chair shall act as Chair when the Chair is absent or is otherwise unable to perform her/his duties. If both the Chair and the Vice-Chair are absent, the Clerk shall act as Chair and shall appoint an acting Clerk.
- iv. The Clerk of the Board shall keep all accounts and files of the Board in proper order and generally assist the Chairman in the performance of his duties.
- v. Alternate Member- An alternate member(s) shall be designated by the Chair to sit on the Board in the case of absence, inability to act or apparent conflict of interest on the part of any Board member, or in the event of a vacancy of the regular membership. If designated to vote for an absent member, the Alternate(s) shall continue to vote until the conclusion of the agenda item then under consideration. Alternates when not designated to take the place of a member shall sit with the board and participate in discussions but shall not make or second motions or vote.

B. Support Staff

Zoning Board of Appeals Administrative Assistant - The ZBA Clerk shall receive the applications for variances, appeals, special permits and comprehensive permits for the BOA; review applications for compliance with the Zoning Bylaw and Board Rules requirements; arrange for appropriate meeting space; prepare all legal advertisements prior to sending to the local newspaper, distribute copies of applications to the appropriate boards & departments; mail the public hearing notices and any decisions to the parties-in-interest according

to MGL c. 40A, §§9,11 and/or §15. Deliver or mail hard copies of applications to each member before each meeting.

Town Planner - makes recommendations to the Board on any matter to come before the Board for action or decision, including, where appropriate, the preparation of proposed correspondence, resolutions, and votes to be taken by the Board. The Town Planner ensures that Board meeting minutes are taken and prepared by a hired recording secretary. Before each meeting, the Town Planner provides each member digital copies of the agenda, together with such explanatory notes, recommendations as to the action to be taken by the Board as may be appropriate and such copies of correspondence or other material relevant to the agenda as may be available. This should occur on the Friday preceding each regular meeting of the Board.

Building Commissioner – makes recommendations on each application before the board on compliance with the zoning bylaw and signs each application before it is submitted.

C. Quorum

Three members of a five-member board will constitute a quorum for regular business.

D. Resignations

If a regular member or associate member resigns from the Board, the resignation shall be submitted, in writing, to the Select Board Chairperson and a copy shall be provided to the Town Clerk. Subject to any applicable restrictions relating to the terms of the appointment of the individual, the resignation may specify a future effective date, so as to allow completion of any pending cases to which the member has been assigned. Unless otherwise stated, the resignation shall become effective upon the filing of same with the Town Clerk.

260-3. MEETINGS OF THE BOARD

A. Public Meetings

Public meetings shall be conducted in accordance with the Open Meeting Law: MGL c. 30A, §§18-25. Notice for each meeting shall be filed with the Town Clerk and posted in the Town Office Building at least 48 hours prior to the meeting, excluding Saturdays, Sundays and legal holidays.

B. Public Hearings

Public hearings of the Zoning Board of Appeals are normally held during a regularly scheduled meeting date, which is the fourth Thursday of each month at 7:00 PM. Others may be scheduled as necessary.

(1) Filing deadlines:

- (a) Applications - The last date to file all applications will be 3:00 PM, 30 days before the next scheduled meeting date; however, the board has 65 days within which to conduct a required public hearing.
- (b) Additional Information – To be accepted and considered by the board at a meeting, additional information for an ongoing application must be submitted by 3:00 PM the

Thursday before the meeting, one week before the given meeting. Information submitted after this deadline may or may not be considered by the board.

- (2) Notice to Parties-In-Interest – Applications that are subject to abutter notification requirements under MGL c. 40A, §11, defines “parties in interest” as the petitioner, owners of land abutting the subject land, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of property line of subject land (abutters outside town boundary also must receive notice) as certified by the Town’s Assessor, and the Planning Boards of all abutting towns. *(see Sec. 260-4B(1)(d) of these rules for application requirements for parties-in-interest notifications)*
- (3) Public Notice - Notice of public hearings shall be published twice, one being two weeks in advance of the hearing, in a newspaper of general circulation for Middleton in accordance with MGL c. 40A, § 11. Notice of public hearings shall be filed with the Town Clerk and publicly posted in Town Hall not less than fourteen (14) days prior to the hearing. In addition, a copy of the advertised notice shall be sent by mail to the following: the property owner, petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of the property line, (all as they appear on the most applicable tax list), and any other interested parties, and be postmarked at least 14 days prior to the date of the hearing. This abutters list can be obtained from the Assessor's Office during normal office hours.
- (4) Hearings to be Public - All hearings are open to the public. No person shall be excluded unless he/she is considered by the Chair to be a "serious hindrance" to the workings of the Board.
- (5) Representation and Absence - An applicant may present the application or be represented by an agent or attorney. In the absence of representation without due cause on behalf of the applicant, the Board may act on the matter using the information it has otherwise received, continue the matter to the next public hearing, or the Board may decide by unanimous vote that the petition be denied.
- (6) Hearing Procedure – The Chair shall open the meeting, explain the procedures of the Board and open the evidentiary part of the hearing. All hearings proceed in the following order, with the Chair in charge of all portions of the hearing:
 - A. Notation by the Board all submitted materials and observations of the site visit, if applicable;
 - B. Applicant’s presentation and evidence gathering;
 - C. Questions from the Board;
 - D. Comments and questions from the public;
 - E. Applicant’s response;
 - F. Submittal of Final Plans and Information as requested by the Board;
 - G. Final comments and questions from the public, applicant and Board, in that order;
 - H. Close of evidentiary part of the hearing or, if necessary, continuation of the hearing to a date and time certain.
 - I. Public meeting Board deliberations, including but not limited to:
 - i. identify, review, and make findings of fact;
 - ii. identify, discuss, and establish condition;
 - iii. review and make findings required under any applicable section of the Zoning Bylaw
 - J. Motion to approve, or deny followed by a second. Discussion, if any of the motion (motion should be in the form of the agenda item unless modified)
 - K. Revised Final Plans and Information – Revised plans submitted to the Board as a condition of a special permit, variance or comprehensive permit shall be reviewed and acted on at a public meeting.

- (7) Mullins Rule – pursuant to MGL c. 39, § 23D, members who miss one session of a public hearing may certify that they have examined all the evidence received by the board at the missed session using a “Mullins Form.” (*See Form D in appendices*)

C. Site Visits

The Zoning Board of Appeals may want to view any properties that come before it under applications for special permits, variances, appeals and comprehensive permits. Applicants will be notified of the site visit, and should be prepared to meet with the Board at the site. The purpose of the site visit is to view the site and its relation to the surrounding area. It is not acceptable for testimony or deliberation on an application to occur outside the public hearing. The Open Meeting Law does not apply to site visits, and the applicant may deny permission to members of the public from attending the site visit.

D. Findings and Decision

The Board's written decision shall state the specific findings of fact and reasons for its decision.

E. Voting

The record shall show the vote of each Board member upon each question or, if failing to vote, indicating such fact. A concurring vote of four members of the five sitting Board members is necessary in granting special permits, variances, and appeals from the decision of the Building Commissioner (MGL c. 40A, § 15). The Alternate member may vote when a sitting member is not in attendance or has stepped off the Board for reason of conflict.

F. Extensions

In accordance with MGL c. 40A, the required time limits for conducting a public hearing as well as acting on an application may be extended by written agreement between the petitioner and the Board. A copy of such agreement shall be filed with the Town Clerk.

G. Filing and Recording

Decisions of the Board are final only when signed by the Board and filed with the Town Clerk. Time limitations for filing are specific to the type of application. Board decisions that grant a special permit, variance, appeal or comprehensive permit shall not take effect until a copy of the decision is filed with the Registry of Deeds and bears the signed certification of the Town Clerk that twenty days have elapsed after the decision has been filed and no appeal has been filed. The applicant bears all responsibility for recording at the Registry of Deeds any special permit, variance, appeal or comprehensive permit granted by the Board. Denials and withdrawals of applications are not recorded at the Registry of Deeds.

H. Withdrawal

Any filed application may be withdrawn without prejudice, by notice in writing to the Town Clerk with a copy to the Clerk of the Board at any time prior to publication of legal notice of the hearing in the newspaper. Requests to withdraw after publication of legal notice may be in writing as provided above, or they may be made by the applicant orally at the public hearing. After such publication, withdrawal requires approval by unanimous vote of the Zoning Board of Appeals at a public meeting. At least two members of the original Board panel assigned to the application must participate in the vote on the request for withdrawal. All application fees are non-refundable.

I. Miscellaneous

The Board may at its discretion seek information from any Town official, Board, committee, agency or any other person whom the Board believes may have appropriate expertise in any matter.

260-4. APPLICATIONS UNDER THE ZONING ACT (MGL c. 40A)

A. Procedures

(1) Special Permits/Site Plan Review

- (a) Time Requirements for Board Action: When an application is filed with the Town Clerk, the Board must hold a public hearing within 65 days from the day of filing. The decision of the Board must be filed with the Town Clerk within 90 days following the close of the public hearing as established by MGL Chapter 40A, Section 9. Failure by the Board to act within the prescribed time limits shall be deemed approval of the application, and a constructive grant of the permit.
- (b) Time Requirements for Appeals of a Decision: Any person aggrieved by the Board's decision may appeal to the court within 20 days as provided in MGL Chapter 40A, Section 17.
- (c) Time Requirements for Use or Construction: Substantial use or construction of a project authorized by a special permit must commence within two years of filing the decision with the Town Clerk. The required time limits for substantial use or construction may be extended by written agreement between the petitioner and the Board for an additional period.
- (d) Conditions of Approval: MGL c. 40A, §9 allows the imposition of "conditions, safeguards and limitations on time or use." A special permit, unlike a variance, may be conditioned by limiting its duration to the term of ownership or use by the applicant.
- (e) Modifications to existing Special Permits and approved Site Plans: The ZBA shall not approve a substantial modification which changes the result of an original deliberate decision, or which grants relief different from that originally granted, without compliance with the relevant notice and hearing requirements. The following changes will be deemed to be insubstantial or insignificant by the Building Commissioner after the petitioner first submits a written request for a determination of the change(s):
 - (i) Changes to infrastructure (underground utilities: water, sewer, electric, and utility provisions/apparatus with written approval by the agency responsible for the utility.
 - (ii) Increases in the type or quantity of landscaping
 - (iii) Shifting of structures, parking spaces or other site amenities less than one (1) foot in distance, provided the change does not result in any violations of any setbacks, buffers, or open space requirements.
 - (iv) A reduction in the foot print of the proposed structures or a reduction in impervious areas provided that the Parking Requirements of §5 (Zoning Bylaw) continue to be satisfied.
 - (v) Moving of Accessible Parking pursuant to 521 CMR as most recently amended.
 - (vi) The Board may determine that other modifications are insubstantial or insignificant at its regular public meetings.

(1) Variances

Applications for variances shall be acted upon following a public hearing. No variance shall be granted without specific findings by the Board that all four conditions found in MGL c.40A, § 10 have been met.

(a) Required Findings

- (i) Circumstances relating to soil conditions, shape, or topography that especially affect the property for which a variance is sought but do not generally affect the zoning district in which the land or structure is located.
- (ii) Facts showing that substantial hardship, financial or otherwise, will result from literal enforcement of the applicable zoning restrictions to the land or building.
- (iii) Facts supporting a finding that the relief sought will be desirable and without substantial detriment to the public good.
- (iv) Facts supporting a finding that the relief sought may be given without nullifying or substantially derogating from the intent and purpose of the Zoning Bylaws.
- (b) Conditions: The Board may impose conditions and limitations both of time and of use, including the continued existence of any particular structures. However, the Board cannot impose conditions based on the continued ownership of the land or structures to which the variance pertains.
- (c) Time Requirements for Board Action: When an application for a variance is filed with the Town Clerk, the Board shall hold a public hearing within 65 days from the day of filing. The decision of the Board shall be made within 100 days from the date of filing the application with the Town Clerk. Failure by the Board to act within the prescribed time limits shall be deemed a grant of the variance.
- (d) Time Requirements for Appeals of a Decision: Any person aggrieved by the Board's decision for the variance may appeal to the court within 20 days, as provided in MGL c. 40A, §17.
- (e) Time Requirements for Use or Construction: If the rights authorized by a variance are not exercised within one year of the date that the board voted to grant the variance, the variance shall lapse. The required time limits for exercising said rights may be extended by written agreement between the petitioner and the Board for an additional period not to exceed six months, provided that the application for such an extension is filed with the Board prior to expiration of the variance (MGL c.40A, § 10). A copy of such agreement shall be filed in the office of the Town Clerk.

(2) Appeals of an Order or Decision of the Building Commissioner

The Zoning Board of Appeals can receive appeals under MGL c. 40A, §§7,8, &15 from: (i) A person aggrieved by an inability to obtain a permit from the Building Commissioner, (ii) a person aggrieved by enforcement action, or lack thereof, from the Building Commissioner, or (iii) the regional planning agency, an officer or board of the Town or of an abutting town aggrieved by an order or decision of the Building Commissioner or Town official perceived to be in violation of the Zoning Bylaw.

- (a) Time Requirements for the Petitioner: An appeal under MGL Ch. 40A, Section 8 must be taken by the petitioner within 30 days from the date of the order or decision that is being appealed. This order or decision must be in the form of a letter signed by the Building Commissioner stating the reason for the denial. The application for appeal, specifying the grounds for the appeal, shall be reviewed for completeness before it is filed with the Town Clerk. Once it has been filed with the Town Clerk, the Chair will schedule a public hearing. Copies of the time stamped application of appeal will be forwarded by the Town Clerk to the Zoning Board of Appeals and the officer or Board whose decision is being appealed, as stipulated in MGL c. 40A, § 15.
- (b) Time Requirements for Board Action: The Board shall hold a public hearing on any appeal application within 65 days from the date of filing. The decision of the Board shall be made within 100 days from the date of filing the application with the Town Clerk. The required time limits for a public hearing and said action may be extended by written agreement

between the petitioner and the Board. A copy of such agreement shall be filed in the office of the Town Clerk.

- (c) Failure by the Board to act within the prescribed time limits shall be deemed an approval of the application and a constructive grant of the appeal. The petitioner who seeks such approval by reason of the Board's failure to act shall notify the Town Clerk in writing within 14 days from the expiration of the 100-day or extended time period. The petitioner shall send notice to parties in interest that any appeal of the grant must be made pursuant to MGL c. 40A, § 17. Any appeal of the grant must be filed with the court within 20 days from the date that the petitioner notified the Town Clerk in writing of the Board's failure to act.

B. Application Requirements

(1) General

- (a) Application Form: A complete application shall be filed on the Town's permitting portal and include the appropriate ZBA application form(s). (See Section 260-3.B.(1) for deadlines for filing new applications and for submitting additional information) All information called for by said form shall be furnished by the petitioner at the time of application and in the manner therein prescribed. The ZBA may deny any incomplete and inaccurate application, petition, or appeal and notify the Town Clerk and appellant of such denial. The Building Commissioner must sign each application before it is submitted to the Town Clerk. *(See all application forms in Appendices)*
- (b) Waivers: The Board may, with good cause, waive technical requirements under Section 9.5.6 of the Zoning Bylaw for an application upon submittal of a written request by the applicant and majority vote of the Board. All requests for waivers shall be included in the application package.
- (c) Multiple Actions for Single Project: Only one general application form is required for a single project where more than one type of relief is requested; additionally, the petitioner must clearly describe each form of relief requested on the separate sub-forms. The fee for an application containing multiple forms of relief shall be based on the single highest fee charged for the multiple requests for relief. If a project contains commercial/industrial and residential (mixed use), the fee shall be based on "GFA" as opposed to "residential units."
- (d) Providing Parties-In-Interest Notification & Decision Materials:
Applications for special permits, variances, and appeals are subject to abutter notification requirements under MGL c. 40A, § 11, which defines "parties in interest" as the petitioner, owners of land abutting the subject land, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of property line of subject land (abutters outside town boundary also must receive notice) as certified by the Town's Assessor, and the Planning Boards of all abutting towns. If the subject property is close to the town boundary, a certified abutter's list from the abutting town will be required, if applicable.

Each applicant shall submit the following materials with the hard copy of their application to the Planning Office:

- (i) Each applicant is required to submit two (two) self-addressed stamped envelopes for each abutter and each Planning Board of abutting town (addresses below) to be used by the planning office to send out required notices and decisions.

Boxford Planning Board	7A Spofford Rd	Boxford, MA 01921
Topsfield Planning Board	8 West Common St	Topsfield, MA 01983
N. Andover Planning Board	120 Main St	N. Andover, MA 01845
N. Reading Planning Board	235 North St	N. Reading, MA 01864
Lynnfield Planning Board	55 Summer St	Lynnfield, MA 01940
Peabody Planning Board	24 Lowell St	Peabody, MA 01960
Danvers Planning Board	1 Sylvan St	Danvers, MA 01923

- (ii) Envelopes shall be legibly addressed with enough postage on them to mail one sheet of paper in each, and the following return address must also be placed on the upper left-hand corner of each envelope:

Middleton Planning Board
195 North Main Street
Middleton, MA 01949;

- (iii) The original copy of the abutters list certified by the Assessing Department must be submitted with the application materials. Submit these envelopes along with the required hard copy of your completed application. The Planning Office will mail the public hearing notice and notice of decision using these addressed and stamped envelopes.
- (e) Recommendations by Planning Board and Industrial Commercial Design Review Committee: The Zoning Board of Appeals may not make a decision on a site plan approval unless the applications have been sent to the Planning Board and Industrial Commercial Review Committee for their review and recommendations.

(2) Special Permits, Variances, and Site Plan Review Filing Requirements

A complete application shall be filed on the Town's permitting portal and include the appropriate ZBA application form(s), abutters materials according to Section 260-4.B. of the ZBA Rules, required supporting documents and plans.

The petitioner shall file nine (9) printed copies, including one copy with original signatures (all included plans shall be no larger than 11" x 17"), and either one (1) flash memory device or an emailed copy of each complete application package with the Planning Office; however, if a Stormwater Management Plan or Traffic Study is required for a project, only two (2) printed copies and as well as digital copies of each shall be required as part of the printed application package. Staff will file one copy of the application package with the Town Clerk and one copy will be for the file.

A ZBA Application Checklist containing all required materials and supporting documents for each application can be found on page 3 of the ZBA General Application (Form A).

Directions for submitting applications through the Town's Online Permitting Portal can be found under Appendices.

Each application shall include the following items:

- (a) Project Narrative: A thorough description of the existing conditions and/or use; the proposed changes; justification of the proposal; and any other relevant information that the Board may need in reviewing the application.
- (b) Site Plan Contents :
 - (i) Site Plans shall be scaled 1" = 20' for 24" x 36" plan size
 - (ii) *Existing Conditions Plan*: Plan shall include the property boundaries, outlines of existing buildings and structures showing closest points of structure to each lot line; existing pavement areas; existing easements; and wetland delineation and 100' buffer zone. The plan must be prepared and stamped by a registered land surveyor.
 - (iii) *Proposed Site Plan*: Plan shall include the property boundaries, outlines of proposed buildings and structures showing closest points of structure to each lot line; typical building setbacks for the zoning district; proposed pavement areas; proposed easements; wetland delineation and 100' buffer zone. The plan must be prepared and stamped by a registered land surveyor and Professional Civil Engineer.
 - (iv) Elevation Plans – Suggest we ask an architect what should be in here. I would be sure this also includes a rendering and massing plan
 - (v) *Floor plans*: Include existing and proposed layout, drawn to scale and dimensioned. All plans must be dated and include the name of preparer. □ Building elevations: Show existing conditions and proposed changes drawn to scale. For anything other than one- and two-family residential developments, all architectural plans must be prepared by a Registered Architect.
 - (vi) *Landscaping Plan*: Plan shall depict should locations and species of landscaping areas provided. The plan must be prepared and stamped by a registered land surveyor.
 - (vii) *Outdoor Lighting Plan* – Plan showing location and type of outdoor lighting and lighting fixtures, said lighting to be designed to minimize glare and light spillover onto adjacent properties, streets. All exterior lighting shall be designed and installed so as to be shielded or downcast, and to avoid light trespass onto adjacent properties. Lighting fixtures shall be selected according to the Dark Sky compliance recommendations. Plan shall depict the light intensity (foot-candle) in an appropriate grid. All exterior lighting shall be limited to 15 feet in height and shall cast a maximum of 8 foot candles of light on the ground. Lighting shall also be directed so as not to blind vehicle or pedestrian traffic, adjacent buildings or spill to abutting properties to the site.
 - (viii) *Offsite Improvement Plans* – Plan shall depict full design, grading, etc. for any work required within the public way. This is including but is not limited to pedestrian implements, traffic improvements, traffic signal improvements, etc.
 - (ix) *Parking Analysis*: a comparison table shall be placed on the site plan for any project that includes parking lot construction, structural change, reconstruction, alteration, extension or change of use or occupancy of a building(s) or structure (s). The Parking Summary Table shall summarize:
 - 1. Existing parking count
 - 2. Proposed parking count
 - 3. Proposed ADA parking
 - 4. ADA parking requirements
 - 5. Overall site parking count required by the zoning bylaw.
- (c) Traffic Study:

- (i) The ZBA shall make the final determination of whether a traffic study will be required for the proposed project; however, a traffic study (two hard copies) shall be submitted with the application in the case of petitions that include any of the following:
 - 1. construction, structural change, reconstruction, alteration, extension or change of use or occupancy of a building(s) or structure(s) containing eight (8) or more residential dwelling units, or used for fast-food, or any kind of establishment with a drive-thru;
 - 2. 25 or more new peak hour trips based on ITE (Institute of Transportation Engineering) trip generation data from a development on a residential or local street; and/or
 - 3. 50 or more new peak hour trips based on ITE (Institute of Transportation Engineering) trip generation data on a collector or arterial street.
- (ii) Applicants may submit a request to waive the requirement to submit a Traffic Impact Access Study that the board will consider at the public hearing held for the application.
- (iii) The person or firm preparing the traffic study must be a professional engineer licensed by the Commonwealth of Massachusetts and shall be certified as a Professional Traffic Operations Engineer. The scope of study shall include, but is not necessarily limited to:
 - 1. General
Traffic Impact and Access Study (TIAS) will detail existing and future roadway conditions, the number of trips anticipated to be generated by the proposed development, the impacts, if any, on the existing roadway network, and any potential mitigation measures. The study will be confirmed by the Town.
 - 2. Traffic Counts
 - a) Manual turning movement counts will be collected during the weekday morning (7:00 – 9:00 a.m.), evening (4:00 – 6:00 p.m.), Saturday mid-day, peak periods at study area locations.
 - b) Automatic Traffic Recorder (ATR) counts will be conducted within the project area for a 48-hour weekday period. ATR data collected will be summarized in 15-minute increments and will include directional traffic volumes, vehicle classification, and vehicle speeds.
 - 3. Safety Analysis
 - a) Historical crash data will be provided for the most recent five (5) years available from MassDOT. Crashes will be summarized by type, severity, time period, weather conditions, and lighting conditions, and crash rates will be calculated and compared with State and District 4 averages.
 - b) Crash diagrams will be provided in accordance with MassDOT Design Submission guidelines.
 - c) Sight distance will be evaluated at proposed site driveways to verify adequate visibility is provided.
 - d) Evaluations of proposed site access drives and intersections impacted by the proposed development will be presented to verify that accommodations will be adequate for the project generated traffic, including sufficient capacity to accommodate peak hour traffic volumes and adequate geometry to safely accommodate design vehicles.
 - 4. Traffic Projections / Site Generated Traffic
 - a) Existing traffic data will be projected to a seven (7) year horizon based on an appropriate percent per year compound annual growth rate in accordance with MassDOT and Town standards. Background growth assumptions used in TIAS will be based on historical MassDOT traffic count data for study roadways,

- census data, and CTPS regional model data. Additional large development projects in the area will be identified for additional traffic volumes to be included in the Design Year traffic network.
- b) Project generated trips, pass-by trips, and internal trip capture will be estimated using the ITE Trip Generation Manual and added to the Design Year traffic volume network.
- 5. Traffic Analyses / TIAS Preparation
 - a) Study intersections will be analyzed to compare operations under future No-Build and Build conditions using Synchro software. The findings will be summarized in tabular form.
 - b) Recommendations for potential mitigation measures at study intersections will be identified where appropriate. The future build volumes will be analyzed with the proposed mitigation measures using the Synchro model.
 - c) A Traffic Impact and Access Study (TIAS) will be prepared to describe the methodology of evaluations performed, summarize the findings of all analyses, and present potential mitigation measures where required.
 - d) The TIAS will include a summary of parking supply, circulation and drive-through operations. The study will verify that the off-street parking supply and drive-through, as may be applicable, meet Town zoning requirements.
 - e) Impacts of the development and the need to mitigate potential project impacts will be presented. In addition to roadway capacity impacts, accommodations for pedestrians, bicyclists; conformance with all ADA requirements; and consistency with any proposed future roadway improvements will be presented.

(3) Appeals Filing Requirements

A complete application (ZBA application & Form A4) shall be filed on the Town's permitting portal and include the appropriate ZBA application form(s), abutters materials according to Section 260-4.B.1.d of the ZBA Rules, and required supporting documents and plans. The petitioner shall file nine (9) printed copies, including one copy with original signatures (all included plans shall be no larger than 11" x 17"), and one (1) copy on either a flash memory device or an emailed version of each complete application package with the Town Clerk, along with the appropriate filing fee. Special instructions for Stormwater Plans and Traffic Study submittals can be found below. The Town Clerk will forward one copy to the Planning Office.

A complete application shall include the ZBA application form, required filing fee(s), certified list of abutters, and required supporting documents and plans.

- (a) Supporting documents: Applications for appeals under MGLA Chapter 40A, Sections 7, 8 and 15, and the Town Zoning Bylaws Section 9.1.6: "Appeals," must be supported by a legibly written memorandum setting forth in detail all facts relied upon and including:
 - (i) Written documentation specifying the grounds thereof for filing the appeal.
 - (ii) Facts relied upon shall support a finding that the applicant was aggrieved because of his/her inability to obtain a permit or enforcement action for the applicable administrative office.

- (iii) Facts shall also include reference to the applicable laws and reason why the applicant should obtain the permit or enforcement action and what remedy the applicant is requesting from the Zoning Board of Appeals.

260-5. COMPREHENSIVE PERMITS

A. Purpose and context.

- (1) These rules establish procedures for applications to the zoning board of appeals for comprehensive permits granted under MGL c. 40B, §§ 20-23 and the regulations promulgated thereunder. They are required by MGL c. 40B, § 21 and by 760 CMR 56.00, et seq. The purpose of that act and these rules is to facilitate the proper development of affordable housing in Massachusetts.
- (2) These Rules alone are not sufficient to describe comprehensive permit procedures before the zoning board of appeals. They must be read in conjunction with and implemented in a manner consistent with MGL c. 40B, §§ 20-23. In addition, the Board's general rules and policies for conduct of hearings under MGL c. 40A apply to comprehensive permit applications. In case of inconsistency or conflict between those general rules for conduct and these Rules, these Rules shall govern.
- (3) These rules take effect on passage and supersede any other c. 40B rules that may have been adopted by the Board.

B. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOARD

The Middleton Zoning Board of Appeals established under MGL c. 40A, § 12.

LIMITED DIVIDEND ORGANIZATION

Any applicant which proposes to sponsor housing under MGL c. 40B; and is not a public agency; and is eligible to receive a subsidy from a state or federal agency and which agrees to limit its actual profit as required under law. [See § 3A (9) below]

LOCAL BOARD

Any local board or official, including, but not limited to any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission; fire, police, public works, or other department; building inspector or similar official or board; board of selectmen.

C. Filing; time limits; fees; notice.

- (1) The application for a comprehensive permit shall consist of:
 - (a) 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. All site development plans shall be stamped by a registered Professional Engineer;
 - (b) 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 § 3A (1), above;

- (c) 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;
- (d) 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;
- (e) Where a subdivision of land is involved, a Preliminary or Definitive Subdivision Plan conforming to all of the applicable requirements of the Middleton Regulations for the Subdivision of Land;
- (f) A utilities plan, stamped by a registered Professional Engineer showing the proposed location and types of sewage, drainage, and water facilities, including hydrants. Adequate supporting information shall be provided to demonstrate that the drainage system will meet all Stormwater Management Guidelines promulgated by the Massachusetts Department of Environmental Protection, or best management practices, whichever is more stringent;
- (g) For projects with more than eight (8) residential units, a Traffic Impact & Access Study;
- (h) Documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01, that is:
 - (i) The applicant shall be a public agency, a non-profit organization, or a limited dividend organization.
 - (ii) (The project shall be fundable by a subsidizing agency under a low or low- and moderate-income housing subsidy program. The Board may review this documentation to ensure that the applicable subsidizing agency has performed the due diligence required under 760 CMR 56.04.
 - (iii) The applicant shall control the site and the means of access thereto. This documentation must adequately demonstrate that the Applicant possesses the necessary control over the site and the site access to develop the project as proposed in the Application.
- (i) A concise list of requested exceptions to local requirements and regulations, including local codes, by-laws or regulations, along with an explanation of the reasons for seeking such exceptions. Blanket waivers requests shall not be permitted;
- (j) A complete financial pro-forma, detailing the projected costs and revenues of the proposed project. In preparing its pro-forma, the Applicant shall limit its costs to actual arm's length expenses in purchasing and developing the property. Additionally, the Applicant shall fully disclose any land or development costs ascribed to related entities;
- (k) A complete copy of any and all materials and applications submitted by the Applicant to any prospective subsidizing agency or source, including, but not limited to applications for project eligibility;
- (l) A list of each member of the development and marketing team, including all contractors and subcontractors, to the extent known at the time of application. The Applicant shall also be required to disclose its relationship to all such entities;
- (m) A list of all prior development projects completed by the Applicant, along with a brief description of each such project;
- (n) Evidence of local need for the type and number of housing units being proposed by this Application.

(2) Fees.

- (a) The application shall be accompanied by a filing fee based upon the number of proposed housing units of:

- (i) For Limited Dividend Organizations: \$1,000 flat fee, plus \$50 per unit;
- (ii) For Non-Profit Organizations: \$1,000 flat fee plus \$25 per unit;
- (iii) For Public Agencies or governmental entities: \$0.
- (b) These fees are applicable for both original applications as well as for applications for permit modifications that are deemed to be substantial by the Board.
- (c) Additionally, the application fee shall include \$5,000 to pay for the services and administrative expense of expert legal counsel. This cost is a reasonable estimate of the administrative costs for counsel retained to assist the Board with the multitude of legal issues that must be explored in the c. 40B process. The Board, in its sole and unfettered discretion may waive any or all of these additional fees if it is determined that legal review is not necessary. Alternatively, the applicant may opt to pay for the Board's legal counsel or financial consultant in the manner prescribed by MGL c. 44, § 53G. Upon request by the applicant, the Board may, for good cause shown, waive the legal or consulting fees contemplated under this paragraph for non-profit or public applicants.
- (3) Within seven days of filing of the application, the Board shall notify every pertinent local official, board or department of the application by sending such official a copy of the application. Based upon that information, it shall also invite the participation of each local official who has an interest in the application. In order to allow review by local officials, the Applicant shall provide the Town Clerk with 25 copies of the complete application so that all boards, officials and departments may review the same; and one PDF copy of the complete application.
- (4) The above-stated materials shall be accompanied by an executed Middleton ZBA Comprehensive Permit Application form and abutters materials according to Section 260-4.B.1.f of the ZBA Rules.

D. Review fees.

The Board may impose reasonable fees for the employment of outside consultants for specific expert services according to board's rules for hiring outside consultants. (*See Section 260-6.B of the ZBA Rules*)

E. Public hearing and decision.

- (1) The Board shall commence a public hearing on the application within 30 days of its receipt, unless such time period is extended by written agreement of the Board and the Applicant. The Board may request the appearance at the hearing of such representatives or local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.
- (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 may be 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 in the event that the proposed project presents adverse impacts to local concerns that outweigh the Town's housing needs; or
 - (c) Approve a comprehensive permit with conditions, including but not limited to the number of permitted housing units, the height, size, shape or general appearance of the proposed buildings, the configuration of the site plan, and any other reasonable condition that is necessary to address issues arising under zoning, wetlands, planning or other local concerns while not rendering the construction or operation of such housing uneconomic. The scope

of conditions may include any matter that would normally be addressed by a Local Board in review of a conventionally proposed project. In order to assist the Board with determining the permissible extent of conditions, the Board may require that the Applicant provide a revised pro-forma at the Board's request, during the latter stages of the public hearing after the parties have had an opportunity to review the proposed project and any revisions thereto. The economic viability of a project may be determined with reference to the average profit earned by other developers of residential housing, as adjusted for the type of housing, the geographical area and the current economic climate. The Board is permitted to engage a financial consultant, at the Applicant's expense (see above) for any review of the impact of conditions that may be imposed.

- (4) It shall be the applicant's burden to demonstrate that the waiver of any particular local regulation, by-law or ordinance is necessary in order to maintain the project's economic viability. There shall be a presumption that the waiver of any local by-law, ordinance or regulation will adversely affect local concerns.
- (5) If a subdivision of land is involved, the following shall apply:
 - (a) No construction is permitted until a Definitive Subdivision Plan has been submitted to and approved by the Board;
 - (b) The Definitive Subdivision Plan shall be prepared and submitted in accordance with Middleton's regulations governing the Subdivision of Land. The Zoning Board and not the Planning Board is the permit granting agency.
- (6) No comprehensive permit shall take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have elapsed after the filing of the decision and no appeals have been filed is recorded in the Registry of Deeds and is indexed under the name of the owner of record of the land.

F. Changes in application.

- (1) Additional Information – To be accepted and considered by the board at a meeting, additional information for an ongoing application must be submitted by 3:00 PM the Thursday before the meeting, one week before the given meeting. Information submitted after this deadline may or may not be considered by the board.
- (2) In the event that, during the public hearing, the Applicant proposes any changes in its Application or project plans that, in the Board's discretion, constitutes a material or substantial change to the project, the Applicant shall provide a new site-eligibility letter or other suitable determination from the designated subsidizing agency that such changes are approvable under the subject subsidizing program.
- (3) In the event of material or substantial changes, the Board may request, and the Applicant shall provide, any and all information specified in § C., above, that is deemed by the Board to be necessary to evaluate such changes.
- (4) In the event of a material or substantial change, any and all plans and supporting information shall be provided to all of the local entities identified in § C.(3), above.
- (5) If, during a hearing, the Applicant submits a revised plan for the Board's consideration and said plan is the plan that is the subject of the Board's hearing and deliberation, then the Application shall be deemed to be revised, subject to the foregoing provisions.

G. Appeals.

- (1) If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in MGL c. 40A, § 17.
- (2) If the Board denies the comprehensive permit or approves the permit with conditions or requirements considered by the Applicant to be unacceptable, the applicant may appeal to the Housing Appeals Committee as provided in MGL c. 40B, § 22

260-6. FEES

A. Application Fees

Fees for applications shall be submitted in the form of a check made payable to the Town of Middleton. Fees are subject to change by vote of the Select Board. Current Fees can be found in the Appendices. See Section 260-4.B.(1)(c) for determining fees for multiple projects.

B. Fees for Outside Consultants

In addition to the fees payable pursuant to Section 260-6.A: "Application Fees", the applicant shall pay the reasonable fees for the employment of outside consultants who, in the discretion of the Zoning Board of Appeals, are necessary to provide guidance on a specific project or conduct site inspections on a permitted project. The appointment of such an outside consultant shall be subject to the right of appeal by an applicant pursuant to the provisions of General Laws Chapter 44, Section 53G. The funds received for outside consultants shall be deposited in a special account and shall be expended by a majority vote of the Zoning Board of Appeals without further appropriation and shall be subject to such other provisions contained in said Section 53G. The payment of fees for such outside consultants shall be made by the applicant prior to the vote by the Zoning Board of Appeals to approve or disapprove a project.

The Board shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed given on the date it is mailed by first class United States Postal Service. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within one week of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Board may request additional consultant fees if the necessary review or construction inspectional service requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Board within twenty (20) days of the request for payment shall be cause for the Board to determine that the application is administratively incomplete and may serve as the basis for denying the application (except in the case of an appeal of the selection of the consultant under MGLc.44§53G and these Rules). In cases where the consultant fees are being used for construction inspections, the bond held for construction completion, if any, may be used to cover the unpaid consultant fees. The Board shall state such in a letter to the applicant. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee.

The selection of an outside consultant may be appealed to the Board of Selectmen. Such appeals are limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications consist of either an educational

degree in the field at issue or a related field, or three 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 Zoning Board of Appeals shall be extended by the duration of the administrative 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 Zoning Board of Appeals shall stand.

Any excess amount in review fees paid by the applicant, including any accrued interest, at the completion of the project shall be repaid to the applicant or to the applicant's successor in interest, and a final report on expenditures made from the fees shall be made available.

260-7. WAIVER OF RULES

Strict compliance with these rules may be waived if the board finds that the waiver is in the public interest or is irrelevant to the project, and is consistent with the intent and purpose of the bylaw and these rules. Any request from an applicant for a waiver of these rules must be submitted, in writing, to the board at the time of submission of the application. Such requests must clearly identify the provision/s of the rules from which relief is sought and be accompanied by a statement setting forth the reasons why, in the applicant's opinion, the granting of such a waiver would be in the public interest or the specific information required is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of the bylaw and these rules.

260-8. AMENDMENTS.

These rules may be changed at any meeting of the Planning Board by a vote of the members thereof.

APPENDICES

FORM A: ZBA GENERAL APPLICATION FORM

FORM A1: SITE PLAN CRITERIA

FORM A2: SPECIAL PERMIT CRITERIA

FORM A3: VARIANCE CRITERIA

FORM A4: APPEALS

FORM B: COMPREHENSIVE PERMIT APPLICATION

FORM C: CONSULTANT FUND NOTICE

FORM D: MULLINS FORM

ZBA GENERAL CONDITIONS

PEDESTRIAN IMPROVEMENT POLICY

ONLINE PERMITTING PORTAL INSTRUCTIONS

FEES

Note: All appendices and forms are authorized independently from the ZBA's Rules and are subject to change at any time, as needed.

FORM A: ZBA GENERAL APPLICATION – page 1 of 3

Town of Middleton Zoning Board of Appeals

Please refer to Section 9.0 of the Zoning Bylaws for authority and requirements. Instructions for filing can be found under Section 260-4 of Town Code.

A complete application includes the following applicable forms:

DATE: _____

- ☐ SITE PLAN APPROVAL..... (FORM A1)
- ☐ SPECIAL PERMIT(S)..... (FORM A2)
- ☐ VARIANCE..... (FORM A3)
- ☐ APPEAL..... (FORM A4)

The forms on the left are required in addition to this **Form A General Application** for each type of relief applied for.

PRINT ADDRESS OF SUBJECT PROPERTY		BOOK/PAGE	ZONING DISTRICT	
		ASSESSOR'S MAP/LOT #		
PRINT NAME OF APPLICANT*		SIGNATURE OF APPLICANT		
<i>* If applicant is <u>not</u> the owner of record, authorization satisfactory to the Board of Appeals, to act on behalf of the owner must accompany this application.</i>				
APPLICANT ADDRESS		APPLICANT PHONE	APPLICANT EMAIL	
Briefly state the reason for the application below. Add full memorandum describing application as an attachment to application.				
List the name, mailing address, phone, and email of each attorney, agent, engineer, or other representative of the applicant:				
NAME	ADDRESS	PHONE	EMAIL	
DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY				
<div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> TOWN CLERK _____ TOWN CLERK </div> <div style="width: 40%; border: 2px solid black; margin: 0 auto;"> <div style="text-align: center; font-size: small;">TOWN CLERK DATE STAMP BELOW</div> </div> </div>		<div style="text-align: center;">APPLICATION #</div> <div style="border: 1px solid black; height: 25px; margin: 10px auto; width: 80%;"></div> <div style="text-align: center; margin-top: 20px;"> _____ BUILDING COMMISSIONER </div> <div style="text-align: center; margin-top: 20px;"> _____ DATE </div> <div style="background-color: yellow; text-align: center; padding: 5px; margin-top: 10px;"> Applications will not be accepted unless signed by Building Commissioner </div>		

FORM A: ZBA GENERAL APPLICATION - page 2 of 3

Provide the information below for commercial, industrial, and multi-family special permit/site plan/variance applications:

	Existing	Allowed/Required	Proposed
Gross* Floor Area (sq ft)			
Net** Floor Area for Use Proposed (sq ft)			
Gross # Off-Street Parking Spaces			
Open Space (% of Lot Area)			
# of customers/day			
# of employees			
Hours of operation			
Days of operation			
Hours of deliveries			
Frequency of deliveries	Daily <input type="checkbox"/>	Weekly <input type="checkbox"/>	Monthly <input type="checkbox"/>
			Other _____

Provide the information below for any new building construction:

	Existing	Allowed/Required	Proposed
Lot Area (sq. ft.)			
Open Space (% of Lot Area)			
Building Height (ft)			
Front Setback (ft)			
Side Setback (ft)			
2 nd Side Setback (ft)			
Rear Setback (ft)			
Lot Coverage by Buildings (% of Lot Area)			

* Gross Floor Area: Sum of floor areas of all spaces within building

** Net Floor Area: Area actually usable by the tenant

FORM A: ZBA GENERAL APPLICATION - page 3 of 3

Applicants shall fill out the checklist below to help ensure all required materials have been submitted as part of the application.

ZBA APPLICATION CHECKLIST	
<i>Note: The ZBA may deny any incomplete and inaccurate application, petition, or appeal and notify the Town Clerk and appellant of such denial.</i>	
<input type="checkbox"/>	Completed application and required sub-forms, signed by the Building Commissioner, and filed on Town's permitting portal
<input type="checkbox"/>	Certified Abutter's List
<input type="checkbox"/>	Appropriate fee; checks should be made payable to the Town of Middleton
<input type="checkbox"/>	Parties-In-Interest Notification & Decision Materials per Section 260-4.B of ZBA Rules
<input type="checkbox"/>	Deed showing the recorded owner of the property, a purchase and sale agreement, or proof of permission from owner to apply if the applicant is not the owner
<input type="checkbox"/>	Project Narrative: a thorough description of the existing conditions and/or use; the proposed changes; justification of the proposal; and any other relevant information that the board may need in reviewing the application
<input type="checkbox"/>	Stormwater Management Plan and/or Traffic Study under Section 260.4.B
<input type="checkbox"/>	<p>Site plans according to Section 260.4.B(2)(b) prepared by a registered professional engineer, land surveyor, architect, as appropriate; or if no site plan changes are proposed, a copy of most recently approved site plan for the property. Site plans shall be scaled 1 in=20 ft for 24' x 36" sheets; however, only submit 17" x 11" hard copies of plans. Site Plans shall include the Sheets specified under Section 260.4.b(2)(b) as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Existing Conditions Plan <input type="checkbox"/> Proposed Site Plan <input type="checkbox"/> Elevation Plans <input type="checkbox"/> Floor Plans <input type="checkbox"/> Landscaping Plan <input type="checkbox"/> Outdoor Lighting Plan
<input type="checkbox"/>	A complete application shall be filed on the Town's permitting portal. The petitioner shall file nine (9) printed copies, including one copy with original signatures (all included plans shall be no larger than 11" x 17"), and one (1) copy on a flash memory device or an emailed copy of each complete application with the Planning Office; however, if a Stormwater Management Plan or Traffic Study is required for a project, only two (2) printed copies as well as digital copies of each shall be required as part of the printed application package. Staff will file one copy of the application package with the Town Clerk and one copy will be kept for the file.
Waivers	
<input type="checkbox"/>	Waiver request(s) with explanations for any of the required items found above

FORM A1: SITE PLAN REVIEW CRITERIA

Page 1 of 1

Town of Middleton Zoning Board of Appeals

This form must be submitted with the application for each SITE PLAN APPROVAL – only for uses that do not also require a special permit. If one or more special permit(s) are also required and the appropriate special permit forms are submitted with the application, there is no need to submit a separate form for Site Plan Review.

Middleton Zoning Bylaw Section 9.5.11 Criteria: Approval. Site plan approval shall be granted upon determination by the Board that the plan meets the following objectives. The Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives.

[Applicant shall explain how the proposal will meet all the criteria below in the spaces provided]

1. Explain how the site plan complies with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of these bylaws.

2. Explain how the site plan, including the relation of driveway openings to street traffic, is designed for safe and convenient vehicular and pedestrian movement.

3. Explain how the location and number of parking and loading spaces in relation to the proposed uses are adequate for the proposed project.

4. Explain how the arrangement of the proposed buildings, structures, freestanding and attached signs, screening, and landscaping is appropriate for the proposed project.

5. Explain how the proposed design of waste disposal, surface and subsurface drainage, and lighting is adequate for the site.

FORM A2: SPECIAL PERMIT CRITERIA

Page 1 of 2

**Town of Middleton
Zoning Board of Appeals**

This form must be submitted with the application for each SPECIAL PERMIT requested by a petitioner. There are two types of special permit criteria: 1. Special Permits under Section 3.3 “Nonconforming uses and structures” and 2. all other special permits.

[Applicant shall offer an explanation of how the proposal will meet all the criteria below in the spaces provided]

SECTION 3.3 “NONCONFORMING USES AND STRUCTURES” CRITERIA

Special permits shall be granted by the special permit granting authority for changes or extensions in a nonconforming use and modifications of nonconforming structures and/or nonconforming lots only upon a written determination that the proposed change or extension will not be substantially more detrimental than the existing nonconforming use and/or structure to the neighborhood.

1. Explain why the proposed change or extension of the nonconforming use, structure, or lot will not be a detriment to the surrounding neighborhood.

SECTION 9.4.2 CRITERIA FOR ALL SPECIAL PERMITS OTHER THAN THOSE IN SECTION 3.3

Permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this bylaw, the determination shall include consideration of each of the following:

1. How does the proposal meet Community needs?
2. How does the proposal address traffic and pedestrian flow and safety, including parking and loading?

FORM A2: SPECIAL PERMIT CRITERIA
Page 2 of 2

3. Are the utilities and other public services adequate for the proposal?
4. Does the proposal fit in with the existing neighborhood character?
5. Are any impacts on the natural environment due to the proposal adequately addressed?
6. What is the potential economic and fiscal impact, including impact on Town services, tax base, and employment of the proposal?

FORM A3: VARIANCE CRITERIA

Page 1 of 1

Town of Middleton Zoning Board of Appeals

This form must be submitted with the application for each variance requested by a petitioner.

The power of the Board of Appeals to grant a Variance from the literal application of the Zoning Bylaw is strictly limited by State Law. Under [MGL, Chapter 40A, Section 10](#), the Board of Appeals must “specifically find” for a particular piece of land or a specific structure that “owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ... by-law would involve substantial hardship, financial or otherwise, to the petitioner ... , and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw.” (emphasis added.) Thus, Under State Law, a Variance may only be granted when all of the four (4) following criteria are met:

- 1). Describe the circumstances relating to the soil conditions, shape, or topography especially affecting such land or structures but not affecting generally the Zoning District in which it is located that would substantiate the granting of a Variance.

- 2). Describe how a literal enforcement of the provisions of the Zoning Bylaw, specifically relating to the circumstances affecting the land or structure noted above, would involve substantial hardship, financial or otherwise, to the Petitioner or Appellant.

- 3). Describe how desirable relief may be granted without substantial detriment to the public good.

- 4). Describe how desirable relief may be granted ... without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw of the Town of Middleton, Massachusetts.

FORM A4: APPEALS UNDER MGL CH.40A, SECTION 15

Page 1 of 1

**Town of Middleton
Zoning Board of Appeals**

This form must be submitted with the application for each APPEAL requested by a petitioner.

Notice of appeal of a Building Inspector's decision or order must be filed with the Town Clerk's office by the applicant or applicant's representative within (30) thirty days after the decision or order is filed by the Building Inspector. The Building Inspector's decisions and/or orders are filed in his or her office.

The Applicant carries the legal burden to make a true and complete presentation of the case, to offer evidence on each of the pertinent legal requirements, and to provide all the relevant facts and documents necessary to a fair presentation of the issues for decision by the Board. Any false statement to the Board and any failure to state a material fact gives the Board legal grounds to revoke any favorable action it has taken on the application, whether the Board explicitly reserves the right to modify or amend its action. Opponents are under a similar legal duty to present their cases truthfully and completely. Under MGL Ch. 40A, Section 15, the Board has the power to subpoena witnesses, take sworn testimony, and compel production of documents.

All appeals must be filed by the applicant with the Town Clerk along with the appropriate fee for administrative costs, as well as deliver copies of the appeal to the officer or board whose order or decision is being appealed, and to the permit granting authority via the online permitting portal.

- The Applicant is solely responsible for filing the ZBA Application online via the Town's permitting portal and delivering two hard copies of the application to the Planning Office and for submitting a Certified list from the Assessor's office of abutters within (300) three hundred feet of the property at issue. See ZBA Rules for required abutters materials according to Section 260-4.B.1.f of the ZBA Rules. Notification to these abutters will be prepared and mailed by the ZBA Office.
- ZBA Office is responsible for sending the legal advertisement to the newspapers to be published twice in consecutive weeks. The applicant is responsible for the cost of the legal advertisement.

Application Withdrawal

Any application for an administrative appeal which has been submitted to the Board may be withdrawn without prejudice by the applicant prior to the publication of the notice of a public hearing thereon, but thereafter may be withdrawn without prejudice only with the approval of the Board.

Please sign the statement below.

I have read the above requirements for submitting an Appeal under [MGL Chapter 40A, Section 15](#)

NAME: _____

DATE: _____

FORM B: APPLICATION FOR COMPREHENSIVE PERMIT
PAGE 1 OF 1
Town of Middleton Zoning Board of Appeals

<div style="border: 2px solid black; height: 100px; width: 100%;"></div> <p>Town Clerk: _____</p>	<p style="text-align: right; font-size: small;">(To be filled out by town clerk office only)</p> <div style="text-align: right;">Required Fees: Limited Dividend Org. (\$1,000+\$50/unit) Non-Profit Organization (\$1,000+\$25/unit) Public Agency (\$0)</div> <div style="text-align: right; margin-top: 10px;">Total Fee: _____ Amount Received: _____</div>
Please refer to Section 260 of Town Code for ZBA Comprehensive Permit Rules	
APPLICANT INFORMATION	PROPERTY INFORMATION
<p style="text-align: center;">APPLICANT</p> Name: Company: Address: Tel#: Email:	Property Owner: Property Address/Location/Description: Essex South Register of Deeds Book/Page: Assessors Map/Lot: Zoning District: Plan Title: Plan Date: Number of existing parcels/lots: Number of Proposed Parcels/Lots:
<p style="text-align: center;">APPLICANT STATUS</p> <p><input type="checkbox"/> Limited Dividend Organization</p> <p><input type="checkbox"/> Non-Profit Organization</p> <p><input type="checkbox"/> Public Agency</p>	
Subsidizing Agency: Subsidy Program:	
DEVELOPMENT TEAM	
Attorney: Engineer: Architect:	Email: Email: Email:
SIGNATURES	
<p>To the Middleton Zoning Board of Appeals, the undersigned herewith submits the accompanying application for Comprehensive Permit pursuant to MGL Ch. 40B, Sections 20-23, CMR 30.00 and 31.00, and the Middleton Zoning Board of Appeals Comprehensive Rules, Town Code, Section 260.</p> <p>Applicant signature: _____ Date: _____</p> <p>Owner signature : _____ Date: _____</p>	

FORM C: CONSULTANT FUND NOTICE
PAGE 1 OF 2
NOTICE OF SELECTION OF OUTSIDE CONSULTANT UNDER MGL c. 44, § 53G
MIDDLETON ZONING BOARD OF APPEALS

Applicant Name/Address:	Mailed to Applicant: <small>DATE</small>

This letter shall serve as notice of the selection of an outside consultant by the Planning Board for the application received on _____ for _____ for the property located at _____.

Consultant Name/Address:	Consultant Estimated Fee: \$

Amount due from applicant within 10 days of notice: \$

*Make your check payable to the **Town of Middleton** and send to: Planning Department, 195 No. Main Street, Middleton, MA 01949.*

(The fee must be received prior to the initiation of consulting services. The Board may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Board within 10 business days of the request for payment, or refusal of payment, shall be cause for the Board to deny the application based on lack of sufficient information to evaluate whether the project meets applicable performance standards in the Zoning Bylaw or its regulations.)

[COPY OF MIDDLETON PLANNING BOARD CONSULTANT RULES BELOW]

<https://ecode360.com/33621163>

[§ 260-12 Rules for hiring outside consultants under MGL c. 44, § 53G.](#)

[Added 8-23-2018^[1]]

A. Purpose. As provided by MGL c. 44, § 53G, and authorized under Section 9.3.5 of the Zoning Bylaws, the Middleton Planning Board may impose reasonable fees for the employment of outside consultants, engaged by the Planning Board, for specific expert services. Such services shall be deemed necessary by the Board to come to a final decision on an application submitted to the Planning Board pursuant to the requirements of the Zoning Bylaw (MGL c. 40A), Comprehensive Permit (MGL c. 40B), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time. The Planning Board may also impose fees for other consultant services related to application review, or permit conditionings or monitoring, under any of the above-referenced laws or regulations.

FORM C: CONSULTANT FUND NOTICE
PAGE 2 OF 2

B. Special account. Funds received pursuant to these rules shall be deposited with the Town Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Planning Board without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a consultant fee has been collected from the applicant. Expenditures of accrued interest may also be made for these purposes.

C. Consultant services. Specific consultant services may include, but are not limited to traffic, drainage, noise. Services may also include on-site monitoring during construction, or other services related to the project deemed necessary by the Board. The consultant shall be chosen by, and report only to the Board and/or its designee.

D. Notice. The Planning Board shall give written notice to the applicant of the selection of an outside consultant. Such notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

E. Fee payment. The fee must be received prior to the initiation of consulting services. The Board may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Board within 10 business days of the request for payment, or refusal of payment, shall be cause for the Board to deny the application based on lack of sufficient information to evaluate whether the project meets applicable performance standards in the Zoning Bylaw or its regulations. An appeal by the applicant stops the clock on the above deadline; the countdown resumes on the first business day after the appeal is either denied or upheld. A denial for lack of information may be based solely on the lack of the third-party consultant review identified as necessary by the Board. Failure by the applicant to pay the consultant fee specified by the Board within 10 business days of the request for payment shall be cause for the Board to deny the permit application.

F. Appeals. The applicant may appeal the selection of the outside consultant to the Board of Selectmen, who may only disqualify the outside consultant selected on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Board of Selectmen and a copy received by the Board, so as to be received within 10 days of the date consultant fees were requested by the Planning Board. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

G. Return of unspent fees. When the Board's review of a project is completed and a permit/decision issued, any balance in the special account attributable to that project shall be returned within 30 days. The excess amount, including interest, shall be repaid 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 appropriate documentation. A final report of said account shall be made available to the applicant or applicant's successor in interest.

FORM D: MULLINS FORM
PAGE 1 OF 1

**CERTIFICATION PURSUANT TO MGL c.39, §23D OF PARTICIPATION IN A SESSION OF AN
ADJUDICATORY HEARING WHERE THE UNDERSIGNED MEMBER MISSED A SINGLE HEARING SESSION**

I, _____ hereby do swear and certify under the pains and
(PRINT NAME)

penalties of perjury as follows:

1. I am a member of the _____ .
(NAME OF BOARD)
2. I missed a hearing session on the matter of _____
(SUBJECT OF APPLICATION)

which was held on _____ .
(DATE)

3. I have examined all the evidence and testimony received at the hearing session that I missed which included a review of (check appropriate):

- ☐ official audio recording of the missed hearing session
- ☐ official video recording of the missed hearing session
- ☐ official transcript of the missed hearing session

This certification shall become a part of the record of the proceedings in the above matter.

Signed under the pains and penalties of perjury this ____ day of _____, 20____.

SIGNATURE OF BOARD MEMBER

**TITLE VII. CITIES, TOWNS AND DISTRICTS
CHAPTER 39. MUNICIPAL GOVERNMENT**

Chapter 39: Section 23D. Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification

Section 23D. (a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

The Mullin rule arises from the Appeals Court decision of Mullin v. Planning Board of Brewster, 17 Mass. App. 139 (1983) which held that a planning board decision on a subdivision plan is an adjudicatory proceeding. The members of the board who vote on the plan must have attended the hearings on the plans. The Mullin case involved, at most, two hearings on a proposed subdivision plan. At least two Massachusetts Trial Court judges have refused to apply the Mullin rule in an overly stringent fashion when there are a series of public meetings. These judges have ruled, in essence, that if a planning board member misses a meeting when non-substantive issues were discussed, it makes little difference.

Furthermore, if a planning board member misses a meeting where there may have been substantive discussion and presentation but that substantive material was undoubtedly reiterated at a later meeting which the planning board member did attend, the Mullin rule should not apply. See Truman v. Travers, 11 LCR8 (Mass. Land Court) (Jan. 8, 2003) (Kilburn, J.) and Xarras v. Snyder, 1998 WL 1184169 (Mass. Superior Court) (June 17, 1998) (Fremont-Smith, J.).

ZBA GENERAL CONDITIONS
PAGE 1 OF 2

Last Revised July 27, 2023

The following general conditions should be used as a guide and/or incorporated, as is, in each special permit/site plan approval decision involving new construction.

1. The Petitioner or its successors or assigns shall not make any substantial changes during construction of the Project or thereafter without first submitting a written request for a determination from the Building Commissioner that such changes are insubstantial and insignificant. The following changes shall be deemed to be insubstantial or insignificant:
 - a. Changes to infrastructure (underground utilities: water, sewer, electric) and utility provisions/apparatus with written approval by the agency responsible for the utility.
 - b. Increases in the type or quantity of landscaping
 - c. Shifting of structures, parking spaces or other site amenities less than one (1) foot in distance, provided the change does not result in any violations of any setbacks, buffers, or open space requirements.
 - d. A reduction in the foot print of the proposed structures or a reduction in impervious areas provided that the Parking Requirements of §5 continued to be satisfied.
 - e. Moving of Accessible Parking pursuant to 521 CMR as most recently amended.
 - f. The Board may determine that other modifications are insubstantial or insignificant at its regular public meetings.

Changes that are deemed to be substantial or are not set forth above shall require a new public hearing to determine if the changes continue to meet the requirements of the Bylaw.

2. Prior to obtaining a Building Permit from the Middleton Building Commissioner, the applicant shall obtain approvals as may be required by the following jurisdictional authorities:
 - Middleton Department of Public Works
 - Middleton Board of Health
 - Middleton Water Department
 - Middleton Conservation Commission
 - Middleton Fire Department
 - Middleton Electric Light Department
 - Middleton Planning Board
 - Massachusetts Dept. of Transportation

Any conditions set forth by any of the appropriate jurisdictional authorities above shall also be a condition of the Board's approval.

3. Petitioner shall not be entitled to an occupancy permit until Petitioner or its successors and assigns deliver to the Superintendent for the Department of Public Works an "as-built plan" from a professional engineer stating that all improvements (including all on-site utilities, parking areas and storm water management facilities), have been completed in substantial compliance with the Site Plans and this

ZBA GENERAL CONDITIONS
PAGE 2 OF 2

Decision and there are no outstanding items to be completed at the Property.

In the event the DPW determines that the improvements to the Property are not in substantial compliance with the Site Plans or that certain Conditions of this Decision have not been satisfied, the DPW shall notify the Building Commissioner that the final occupancy permit shall not be issued until such Deficiencies are remedied.

However, a temporary occupancy permit that will expire after 6 months of issuance may be issued before the "as-built plans" have been submitted but after satisfactory completion of all items essential to public health and safety but with one or more minor Deficiencies such as unfinished landscaping or signage. If the petitioner has not finished within the time limits of the issued temporary occupancy permit, they will be required to attend a ZBA meeting and request a second extension for good cause.

As described above, the petitioner shall not be entitled to full occupancy permit until Petitioner delivers to the DPW an "as-built plan" from a professional engineer and the DPW determines the improvements are in substantial compliance with the Site Plans and Decision.

ZBA PEDESTRIAN IMPROVEMENT POLICY

Adopted January 27, 2022

1. PURPOSE

The purpose of this policy is to promote sidewalk construction and rehabilitation and on-site pedestrian improvements in the town of Middleton is an integral component of new construction as well as of major renovation construction. Every new development in Town results in both a general and unique impact to pedestrian activities that can be addressed through compliance with this policy. The Town of Middleton recognizes that an adequate infrastructure network for pedestrians and bicyclists is important for the health and welfare of the citizens of Middleton and has adopted the Complete Streets Policy and the Pedestrian & Bicycle Improvement Plan (PBIP) to ensure that the needs of pedestrians, bicyclists, and other non- motorized forms of transportation are met. The PBIP will result in an annually updated map and list of prioritized sidewalk projects.

2. AUTHORIZATION

The Zoning Board of Appeals (the Board) shall use its authority under the following sections of the Zoning Bylaw to facilitate, within all Site Plan Review projects, the incorporation of pedestrian amenities on-site and along the public way on which their frontage lies to create safe pedestrian circulation and access to the site. The following sections of the Zoning Bylaw authorize the Board to consider such pedestrian amenities:

- A. Section 5.4.5. Pedestrian and vehicular access; traffic management.
- B. Section 9.3.4. Board of Appeal. Conditions
- C. Section 9.4.2.2. Special Permits. Criteria.
- D. 9.4.4. Special Permits. Conditions.
- E. 9.4.6. Regulations.
- F. 9.5.5.5 & 6. Contents of site plan.
- G. 9.5.11. Site Plan Approval.

3. APPLICABILITY

The Board shall apply this policy, as appropriate, to all projects requiring Site Plan approval under Section 9.5 of the Middleton Zoning bylaw.

4. REQUIREMENTS

- A. As a component of the Board's review, all projects subject to this policy shall be required to demonstrate that the project provides
 - i. Adequate on-site pedestrian amenities and
 - ii. Construction of new sidewalks and/or rehabilitation of an existing sidewalk along the frontage of the subject property.
- B. If a sidewalk already exists along the full length of the applicant's property, the Zoning Board of Appeals, with advice from the Superintendent of Public Works, may, as a component of its review, evaluate the condition of the existing sidewalk and determine if rehabilitation is needed.

5. PROCEDURES

Applicants shall submit site plans conforming to the requirements of this policy that include the

following:

- A. Demonstration that the existing sidewalk network provides adequate pedestrian amenities.
- B. Design of sidewalk improvements that provide adequate pedestrian amenities.
- C. Design of a publicly accessible sidewalk traversing the entire frontage of the property.
- D. Dedicated pedestrian access from the sidewalk to the facility on the property which is separate from the driveway.
- E. Compliance with ADA Accessibility Guidelines, specifically section 4.1.2, number 1, whether new construction or renovation as noted above.

6. SIDEWALK DESIGN

Sidewalk design requirements will be determined by the Superintendent of Public Works and will include the width, type of materials, type of curbing, general layout and other necessary details, and will include consideration of compatibility with any adjacent sidewalk. Where the public layout width is adequate, the sidewalk may be located within the public layout. It is highly recommended to meet with the Superintendent of Public Works to determine the preferred sidewalk design and location before submitting plans.

7. WAIVERS

- A. The ZBA will have the authority to waive requirements to incorporate pedestrian amenities on-site and along the public way if appropriate off-site improvements are proposed to mitigate the impact of the proposed development. Off-site mitigation can be in the form of specific off-site improvements or can be an appropriate contribution to the Town of Middleton's Sidewalk Fund.
- B. The appropriate contribution amount will be determined by the Zoning Board of Appeals, with advice from the DPW Superintendent, and with agreement of the project proponent. All fees collected under the Sidewalk Installation Policy shall be deposited into the Sidewalk Fund and used for pedestrian related projects using the PBIP as a guide.

ZBA ONLINE PORTAL INSTRUCTIONS

Last revised 3/8/2023

ALL ZBA APPLICATIONS

1. Click on "Licenses & Permits" on Town of Middleton homepage. <https://middletonma.gov/>
2. Click on "Online Permitting Portal" <https://middletonma.gov/330/Licenses-Permits>
3. Click on "Apply for a Permit" under "Board of Appeals/Planning Department"
4. If you are a new user, register by clicking "Register Now"
5. If you are already registered, enter your user name and password and click "Login"
6. Project Type Form Field - enter "Zoning Board of Appeals Application"
7. Sub Type Form Field - Choose the appropriate answer in each of the form fields that open.
8. Enter address, parcel #, and property owner (or enter address # and first word of street address name and click on "Find Address." The next information will self-populate if address is found in system.)
9. Click buttons to download ZBA General Application and appropriate Forms for the particular relief sought (special permit, site plan approval, variance, and/or appeal).
10. Enter applicable Zoning Bylaw Section # for each type of relief requested in application (there may be several).
11. Enter the reason for your application and include a description of the project (or note if description is uploaded separate).
12. Enter billing information
13. Upload owner authorization, if needed
14. Upload fully executed ZBA General application and any required Sub-forms for different types of relief.
15. Upload Assessor Certified Abutter's List for property. It is the responsibility of the applicant to apply to the Board of Assessors for a certified list of abutters for the subject parcel. The Board of Assessors may take up to 10 days to provide a certified list of abutters. Applicants are required to submit two self-addressed stamped envelopes for each abutter and each Planning Board of abutting towns with hard copies of the applications per Section 260-4.B(d) of the ZBA Rules. Application will not be deemed complete without required abutters list and prepared envelopes and postage.
16. Upload plans and other supporting documents.
17. Take note of how many hard copies of the full application and supporting documents to deliver to the Planning Office.
18. Click "Submit"
19. New page will open asking for payment. At this time, online payment is not accepted. A check, made out to the Town of Middleton, in the amount shown should be included in the hard copy package that is delivered to the Planning Office.
20. Two hard copies of each application filed online (with the exception that only one copy will be required each for Traffic Studies and Stormwater Management Plans), each with all required and supporting documentation attached and signed by the applicant and the Building Commissioner, shall be delivered by the applicant to the Planning Office located at 195 North Main Street, Middleton. The Planning Office will file the three applications with the Town Clerk's office. One copy shall remain with the Town Clerk and one copy shall be kept in the Planning Board office (195 No. Main St.).
21. TO SAVE APPLICATION BEFORE SUBMITTING: Click "save for later", then "My Account" at top of page, then "My pending application".
22. TO VIEW COPY OF SUBMITTED APPLICATION: Click "My Account" at top of page, then "View my Requests."

ZBA FEES

Approved by Select Board: Feb. 21, 2023

Effective Date: March 1, 2023

Fees for applications shall be submitted in the form of a check made payable to the Town of Middleton.
Fees are subject to change by vote of the Select Board.

ZBA FEES – EFFECTIVE 3/1/2023 *		
PERMIT	PROJECT	FEE
Appeal		\$300
Variance		\$300
Special Permits/ Site Plan Review	Residential 1 & 2 family	\$300
	Signs	\$300
	New commercial and/or industrial use including no proposed construction or site plan changes	\$300
	Commercial and/or Industrial Construction	\$1000 plus \$.14 per sq. ft of GFA
	New multi-family (3+ units)	\$1000 plus \$50/unit
	Wireless Facilities	\$2,000
	All others not listed here	\$300
Comprehensive Permit		\$1000 plus: <ul style="list-style-type: none">• LDO: \$50/unit• Non-profits: \$25/unit• Public: \$0/unit
Consultant Review Fees	As determined by the ZBA to cover the costs of technical review and/or inspections as deemed necessary by the Board. See Section 260-6.B.	
Multiple Action Projects	See ZBA Rules Section 260-4.B.(1)(d) for application fees for Multiple Action Projects	