

# **Town of Medway, Massachusetts Planning and Economic Development Board Rules and Regulations**

**Chapter 700 – Special Permits  
(Adopted pursuant to M.G.L. chapter 40A, section 9)**

**Rules and Regulations for the Review and Approval of  
Special Permit Applications**

**Adopted: February 27, 2024**

## **Medway Planning and Economic Development Board**

Andy Rodenhiser, Chair  
Sarah Raposa, A.I.C.P., Vice-Chair  
Timothy Harris, Clerk  
Jessica Chabot  
John Parlee

155 Village Street  
Medway, MA 02053  
508-533-3291  
townofmedway.org

## **SECTION 1.0 GENERAL**

**701-1 Purpose** – These Rules and Regulations are adopted under General Laws chapter 40A, section 9 to prescribe the process for special permit applications filed with the Planning and Economic Board (PEDB) that are not governed by other PEDB regulations. Where the PEDB has adopted regulations governing specific types of special permits (e.g. ARCPUD developments), those regulations shall control the application, review, and approval process for those specific types of special permits.

**701-2 Use of Forms** – References are made in these Rules and Regulations to various administrative Forms. These Forms are to be used by the Applicant and Board for the orderly and reasonable administration of the special permit process and are included as a convenience to the Applicant. These forms may be developed and maintained by the Board and may be revised, updated, deleted or added to as necessary without a public hearing and formal amendment of these Rules and Regulations.

### **701 – 3 Waivers of Rules and Regulations**

- A. The Board may in its discretion grant waivers from strict compliance with these Rules and Regulations if it determines that:
- 1) the Rule or Regulation requested to be waived does not apply to the particular site or situation under review; or
  - 2) that a waiver would permit a superior design; or
  - 3) that a waiver would allow construction which will have no significant detriment to the achievement of any of the purposes of the Zoning Bylaw; or
  - 4) that a waiver is in the best interests of the Town; or
  - 5) that a waiver is consistent with the purpose and intent of the Zoning Bylaw and these Rules and Regulations; or
  - 6) the Rule or Regulation requested to be waived is required or allowed by federal, state, or local statutes and/or regulations.
- B. The Applicant shall submit a written request for waivers from the Rules and Regulations at the time of application, stating the specific provision requested to be waived, the basis for the request, and how the request meets the criteria for a waiver. Supplemental waiver requests may be submitted during the course of the review process. If an oral request for a waiver is made during the course of the Board's review, it shall also be submitted to the Board as a written request.

## **SECTION 2.0 DEFINITIONS**

For the purposes of these Rules and Regulations, the following terms shall have the meaning herein under assigned to them:

**PARTIES OF INTEREST:** Parties of interest shall mean the Applicant, petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner, as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Planning Board of the city or town, and the Planning Board of every abutting city or town.

## **SECTION 3.0 APPLICATIONS**

**703 – 1 Town Clerk Submittals** - The Applicant shall deliver in hand, or by registered or certified mail, the following submittals to the Town Clerk during regular business hours:

- A. The Special Permit Application form signed by the Applicant, property owner(s), and designated representative, if any, on a form provided by the Board.
- B. One set of the plan (17" x 11") prepared in conformance with these Rules and Regulations including all items as specified in section 703-4

**703 – 2 Planning and Economic Development Board Submittals** - The Applicant shall deliver in hand, or by registered or certified mail, the following submittals to the Board:

- A. The Special Permit Application form signed by the Applicant, property owner(s), and designated representative, if any, on a form provided by the Board.
- B. One set of the plan (24" x 36") and one set of the plan (11" x 17") prepared in conformance with these Rules and Regulations including all items as specified in section 703-4.
- C. One list and three sets of mailing labels of all parties in interest as defined in G.L. c. 40A, §11 for the subject site as appearing on the most recent tax records list maintained by the Assessor's office. The list shall be certified by the Board of Assessors of Medway and all applicable adjacent communities.
- D. One copy of all relevant approvals, land use permits, or decisions received to date from other Town boards and committees (ZBA, Conservation Commission, Board of Health, Historical Commission, Department of Public Works, etc.) and federal or state government agencies.
- H. Resource Areas Documentation - A copy of any Order of Resource Area Delineation (ORAD) from the Medway Conservation depicting the approved wetland resource affecting the proposed project or any Order of Conditions issued within the past three years, or any Determination of Applicability with a finding from the Conservation Commission that the proposed project is not within its jurisdiction, or a written communication from the Conservation Agent regarding the actual and/or possible resource areas on the subject property.

- I. Property Ownership Documentation - A copy of the latest recorded deed to the property(s) comprising the proposed development site to document proof of ownership, or a purchase and sale agreement.
- J. Waivers - Requests for waivers from these Rules and Regulations in accordance with section 701-3.
- K. ALL APPLICATION MATERIALS (including forms, plans, reports, and attachments) SHALL ALSO BE SUBMITTED IN A SEARCHABLE ELECTRONIC FORMAT via email, on a portable electronic storage device, or to a central cloud repository on the internet. The email for such submittals is [planningboard@townofmedway.org](mailto:planningboard@townofmedway.org)
- L. A special permit filing fee.

### **703 – 3 Standards for Plan Preparation**

- A. The plan shall be prepared, stamped, signed, and dated by qualified professionals including a Registered Professional Engineer, a Registered Land Surveyor, or other professional, registered in the Commonwealth of Massachusetts.
- B. The plan shall be drawn at a scale of one inch equals forty feet or such other scale that is approved by the Board.
- C. All existing and proposed elevations shall refer to the North American Vertical Datum of 1988 (NAVD88). Horizontal plan information shall reference Massachusetts State Plane Coordinate System.
- D. All plan sheets shall be bound together in a complete set including building elevation plans.
- E. All plan sheets shall contain a referenced north arrow, sheet number, plan dates and plan revision dates, name of project, name of plan, plan scale, legend, stamp of registered professional responsible for the content of said sheet, applicable notes.

### **703 – 4 Plan Contents** – To be considered complete, the plan submitted pursuant to these Rules and Regulations shall include the information listed below.

- A. Existing Conditions Sheet – A plan showing name and address of owner, name and address of Applicant, name and address of engineer and other professional firms responsible for the plan, project street address, project Assessor's Map and Parcel number, zoning district classification, all bearings and distances of property lot lines and existing structures and buildings; topography; easements; existing uses of land; utilities; fences and walls; scenic roads; impervious surfaces; significant landscape and natural features, and wetlands and other natural resources under the jurisdiction of the Medway Conservation Commission.
- B. Concept plan showing the following:
  - 1) Property boundaries, dimensions of the site;
  - 2) Proposed street and lot layout;

- 3) Locations and dimensions of any proposed easements, public or private rights-of-way, or other encumbrances;
- 4) A table outlining the proposal's conformance with the zoning requirements including lot area, continuous frontage, lot depth, lot width, front, side, and rear setbacks, and open space calculations.

### **703 –6 Public Hearing**

- A. The Board shall conduct a public hearing on the special permit application in accordance with the provisions of G.L. c. 40A and the Zoning Bylaw.

### **703 – 7 Decision**

- A. The Planning and Economic Development Board may grant a special permit with any conditions, safeguards, and limitations necessary to ensure compliance with the Zoning Bylaw.

## **SECTION 4 FEES**

**704 – 1** Fee Structure – The Board shall adopt a Fee Schedule, which shall specify the amount of filing and other applicable fees.

A. Filing Fee - A non-refundable Special Permit Application Filing Fee as specified in the Board's Fee Schedule shall be remitted to the Board at the time the special permit application is filed with the Board.

B. Plan Review Fee

1) Applicability – A Plan Review Fee may be established by the Board for review of the concept plan based on an itemized budget estimate prepared by an outside consultant(s). This fee shall be the reasonable costs to be incurred to retain outside consultant(s) to assist in the review of the proposed project. The Plan Review Fee shall not be a fixed amount but will vary depending on the nature and scale of the project and the expected costs to be incurred. See the Board's Fee Schedule.

2) Fee Payment - The Applicant shall remit the amount determined by the Board upon receipt of an invoice from the Board or the Department of Community and Economic Development prior to the substantive review of the application by the outside consultants, and before the public hearing or meeting commences. Failure to pay the full Plan Review Fee before the public hearing or meeting begins may delay the public review process and constitute grounds for denial of the application.

3) Additional Review Fees – If the expense of the consultant(s)' review of the application including any plans exceeds the original estimate or if the services of additional outside consultants be required after the initial Plan Review Fee has been expended, the Applicant shall be required to pay all additional fees incurred to cover the cost of additional reviews. A new

estimate for additional plan review services shall be prepared and remitted to the Applicant. The Applicant's failure to pay plan review fees in their entirety shall constitute grounds for the Board to deny approval.

C. Other Costs and Expenses - All expenses for professional plan reviews, ancillary report reviews, supplemental studies, advertising, publication of notices, and all other expenses in connection with Plan Review and construction including plan or decision modification fees shall be borne by the Applicant and/or Developer.

## **704 – 2          Payment of Fees**

A. Fees paid shall be by check made payable to the Town of Medway and submitted to the Community and Economic Development office.

B. When a Plan Review Fee is received by the Board pursuant to this section, it shall be deposited with the Town Treasurer/Collector in a special account for these purposes established pursuant to G. L. c. 44, Section 53G. Expenditures from the special account may be made without further appropriation. Expenditures from the special account shall be made only for services rendered in connection with a specific project or projects for which a fee has been or will be collected. Accrued interest may also be spent for this purpose.

C At the completion of the project, any excess amount in the plan review and construction accounts, including interest, attributable to a specific project shall be repaid to the Applicant or Developer or their successor in interest. Upon request, a final report of said account shall be made available. For the purpose of these Rules and Regulations, any person or entity claiming to be the Applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

## **SECTION 5          SEVERABILITY**

The provisions of these Rules and Regulations are hereby declared to be separable. If, in any respect, any provision of these Rules and Regulations in whole or in part, or the application of such provision to any person or circumstance shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision which shall be held invalid and shall not be construed to affect the validity of any of the remaining provisions. In all other respects these Rules and Regulations shall stand. It is hereby declared that the intent of these Rules and Regulations is that the remaining Sections would have been adopted had such invalid provisions not been included therein.

#####

These Rules and Regulations were adopted by a majority vote of the Medway Planning and Economic Development Board on February 27, 2024, and a copy thereof filed with the Town Clerk. These Rules and Regulations take effect on the date of the filing of the approved document with the Town Clerk.