

Town of Franklin



355 East Central Street
Franklin, MA 02038

TOWN OF FRANKLIN
TOWN CLERK
2005 APR 6 PM 3:03
RECEIVED

Zoning Board of Appeals

508-553-4858

1. Purpose of Rules:

These Rules establish procedures for applications to the Franklin Zoning Board of Appeals for Comprehensive Permits under Massachusetts General Laws, Chapter 40B, sections 20-23. They are designed to provide the Board with sufficient information to properly evaluate an application for a Comprehensive Permit and with access to the necessary expertise to assist in that evaluation.

2. Authorization:

These Rules are authorized by Massachusetts General Laws, Chapter 40B, section 21 and Massachusetts General Laws, Chapter 44, section 53G.

3. Relationship to Other Rules:

The Board has previously enacted rules governing the submission of applications for zoning relief. Those general rules apply to Comprehensive Permit Applications, although in the case of inconsistency or conflict between those general rules and these Comprehensive Permit Rules, the Comprehensive Permit Rules shall govern.

4. Definitions:

- (a) Applicant means a public agency, non-profit organization, or a limited dividend organization.
- (b) Application means a request for a comprehensive permit filed as provided in section 5 below.
- (c) Board means the Franklin Zoning Board of Appeals established under M.G.L. c. 40A, § 12.

- (d) Local board means 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 or district; fire, police, traffic, or other department; building inspector or similar official or board; or town council. All boards, regardless of their geographical jurisdiction or their source of authority (that is, including boards created by special acts of the legislature or by other legislative action) shall be deemed local boards if they perform functions usually performed by locally created boards.
- (e) Town means the Town of Franklin, Massachusetts.

5. Form of Application and Required Documentation

- (a) An application shall be filed on the Board's Application form, which shall be fully completed, and shall be accompanied by the following:
 - (i) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. Said site development plans shall be signed and stamped by a registered architect.
 - (ii) A report, together with a plan(s) if applicable, regarding 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. The zoning district or districts, if more than one (1) district is involved, shall also be shown on the plan. (If the abutting land is in another district or town, this shall also be shown.), The report(s) and plan(s) shall be signed and stamped by a registered engineer or land surveyor;
 - (iii) Preliminary architectural scaled drawings for building plans including typical floor plans, typical elevations and sections, and identifying construction type and exterior finish, signed and stamped by a registered architect;
 - (iv) A tabulation of proposed buildings by type, size (number of bedrooms, floor area), and ground coverage, and summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas;

- (v) Where a subdivision of land is involved, a preliminary or a definitive subdivision plan. If a preliminary plan is submitted, the Applicant shall submit any and all information typically required on a definitive plan. Said subdivision plan shall be signed and stamped by a registered engineer or land surveyor;
- (vi) A preliminary utilities plan showing the proposed location and types of sewage, water and drainage facilities including hydrants, which shall be signed and stamped by a registered engineer;
- (vii) Documents specified in 760 CMR 31.01 to show the status of the Applicant and the acceptability of the site;
- (viii) Appropriate documentation evidencing the Applicant's control of the site;
- (ix) A list of requested exemptions to local requirements and regulations, including local codes, bylaws and/or regulations. Said list shall contain citations to the specific sections from which exemption is sought;
- (x) Certified plan of land prepared, by a registered land surveyor or a registered professional engineer;
- (xi) A statement of the impact of project in terms of traffic, public safety, municipal, school and public facilities, recreation, and the effect on open space and the natural environment;
- (xii) A copy of the deed to the property on which the proposed project is to be placed showing the Registry of Deeds Book and Page number(s). If the property is under a Purchase and Sales Agreement, a copy of said agreement shall also be provided;
- (xiii) Documents showing that the Applicant fulfills the jurisdictional requirements of 760 CMR 31.01, that is,
 - (a) the Applicant shall be a public agency, a non-profit organization, or a limited dividend organization,
 - (b) the project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program, and
 - (c) the Applicant shall control the site;

- (xiv) A detailed statement of the local need for the proposed development supported by such documentation as is necessary to support the Applicant's contentions;
 - (xv) An abutters list certified by the Town's Assessor's Office listing all "abutters" as defined in GL. C. 40A, sec. 11.
- (b) The Board may require, if it deems necessary, a preliminary three dimensional model with all the following items included:
- (i) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; proposed landscaping improvements and open areas within the site; and including approximately 100 feet of all the existing surrounding area on all sides, including the buildings and streets. Said site development plans shall be signed and stamped by a registered architect.
 - (ii) Preliminary architectural scaled drawings for building plans including typical floor plans, typical elevations and sections, and identifying construction type and exterior finish, and including approximately 100 feet of all the existing surrounding area on all sides, including the buildings and streets, signed and stamped by a registered architect;
- (c) Twenty (20) copies of said application with attachments and exhibits shall be submitted to the Town Clerk upon filing (to be distributed to the Board Members, the Secretary, and to all of the Town departments). Up to ten (10) additional copies shall be provided to the Board upon request;

6. Requirement of Complete Application and Supporting Documentation

It is the intent of the Board to have a complete application and full documentation provided with the application. The Board may deny a comprehensive permit if material information is missing. In addition, the Board may require additional information during the review process, as it deems appropriate.

7. Filing Fee

The application shall be accompanied by a filing fee, calculated using a base fee and the number of housing units proposed:

\$1,000 base fee, plus
\$ 100 per unit proposed.

8. Outside Consultants

- (a) If, after reviewing the application, the Board determines that in order to more thoroughly review the application it requires technical advice unavailable from Town employees, it may employ outside consultants. In such event the Applicant shall pay the fees for the employment of said outside consultants.
- (b) All reports of said outside consultants shall be included as part of the record in the case.
- (c) If an outside consultant is requested by the Board, any hearing on the application shall be continued until the Board has received the consultant's report and the Board and the Applicant have had a reasonable opportunity to review and evaluate it.
- (d) Consultant fees shall be deposited in a special account established by the Town Treasurer pursuant to M.G.L. c. 44, § 53G.
 - (i) Funds from the special account may be expended only for the purposes described in section 8 (a) above, and in compliance with the Uniform Procurement Act, M.G.L. c. 30B, §§ 1-19,
 - (ii) Within sixty (60) days of the completion of the project or of such time as the Applicant formally withdraws the Application, and that all expenses of the Zoning Board of Appeals have been paid, the Applicant shall request a final report of funds in the special account and shall be paid any unspent excess in the account, including accrued interest.
- (e) Procedure for retention of an outside consultant:
 - (i) Any Member or Associate Member of the Board may request that an outside consultant be retained for the purposes specified in Section 8 (a) above. Such request may be made at any public hearing or properly noticed meeting of the Board or by oral or written request directed to the Board's Secretary.
 - (ii) When a request for such outside consultant is made at a meeting or public hearing of the Board at which the Applicant or a duly authorized representative of the Applicant is present, the Board will vote on said request either at that meeting or hearing, or at such future time as the Board shall specify.
 - (iii) In instances when the request is made when neither the Applicant or an authorized representative is present, the Board shall schedule

a hearing on said request. Said hearing may be held as part of the public hearing on the Application or at such time and place as the Board shall specify for a meeting held with posting as required by law. In either case, the Applicant shall be given written notice of the date, time and place of said meeting or hearing, mailed at least seven (7) days in advance of such meeting or hearing of the fact that the Board will consider the retention of an outside consultant and the issues on which the consultant will be asked to render an opinion.

9. Written Authorization

- (a) If the Applicant is not the owner of the property, the owner(s) shall provide written authorization for the subject application by the Applicant on the application.
- (b) If the individual signing the application is unable to attend any hearing on the application, the Applicant shall provide the Board with written authorization designating a representative who will represent the Applicant at the hearing and stating that said representative has consent to represent the Applicant in all matters related to the project and to withdraw the application.

10. Public Hearing and Decision

- (a) The Board shall hold a public hearing on the application within thirty (30) calendar days of the Applicant's filing same. It may request the appearance at the hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application, and any continuation of the hearing will be held on selected Wednesday evenings thereafter, provided that no two (2) meetings shall be held on consecutive Thursdays. All hearings shall begin at 7:30 p.m. or at such other time as the Chairman shall designate, and will adjourn no later than 10:00 p.m.
- (b) In making its decision, the Board shall take into consideration, but not be bound by, the recommendations of local officials.
- (c) The Board shall render its decision within forty (40) days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the Applicant or the time period is extended in order to receive a consultant's report as specified in section 8(e) above. The hearing is deemed terminated when all public testimony has been received, all information requested by the Board has been received and the Board votes to close the hearing.

11. Decision

The Board may dispose of the application in the following manner:

- (a) Approve the application on the terms and conditions set forth in the application,
- (b) Deny the application as not consistent with local needs,
- (c) Approve the application with conditions, or
- (d) Approve a request by the Applicant to withdraw the application.

12. Severability

If any provision of these Rules shall be deemed invalid by any administrative or court decision, said invalidity shall not effect the remaining Rules, which shall remain in full force and effect.

13. Adoption

These Rules shall be deemed to have been adopted by the Board, and shall be in full force and effect, when they are approved by a vote of the majority of the Board's Members and Associate Members, and a copy has been filed in the Office of the Town Clerk.

FRANKLIN BOARD OF APPEALS ON ZONING

Bruce Hunchard, Chairman
Leo McGowan, Member
Bernard Mullaney, Member
Robert Acevedo, Associate Member
Michael Lee, Associate Member

Adopted with Revisions: March 31, 2005