

[Adopted by the Planning Board, 1/11/07; Revised, 12/6/07, by adding “G. Project Review Fees”; Revised 4/29/10, to reflect increase in PB membership from 5 to 7 and quorum from 3 to 4; Revised 1/3/13 by adding the date “January 3, 2013” in Sec. J. Preliminary And Definitive Subdivisions, to include the date of the revised fees in the subdivision regulation.]

TOWN OF BROOKLINE

PLANNING BOARD RULES AND REGULATIONS AND GENERAL INFORMATION

A. GENERAL

Section 1. Introductory

The Planning Board of the Town of Brookline, Massachusetts, hereby adopts the following rules and regulations for the conduct of its business per General Laws, Chapter 41, Sec. 81Q. A copy of these Rules and Regulations, and all amendments thereto, shall be filed with the Town Clerk of said Town.

Applicants should also refer to the requirements of the town’s Zoning By-Law as well as Massachusetts General Laws Chapter 40A and Chapter 41, Sections 81K to 81 GG, for matters not covered by these rules and regulations.

Section 2. Responsibilities of the Planning Board

The Planning Board has the following *responsibilities*:

- (a) To make recommendations and propose conditions on applications to the Board of Appeals, within twenty days of receipt of such applications for special permits, variances, time extensions, and modification requests.
- (b) To hear and decide sign and façade applications, upon which the Planning Board is empowered to act under the Brookline Zoning By-Law, Section 7.03.2, with appeals of any Planning Board decisions to the Board of Appeals.
- (c) To make recommendations and propose conditions on applications to build low or moderate income housing under Chapter 40B.
- (d) To appoint Design Advisory Teams to provide professional design review assistance to the Planning Board and the Planning and Community Development Department in the review of certain Section 5.09 projects which may have a significant impact on the character of the area.
- (e) To adopt Design Guidelines for specific areas of Town, *per Section 5.09.4.n*, after public notice and hearing, in order to promote building design compatible with the character of

the Town and its neighborhoods.

- (f) To make careful studies and prepare plans of the resources, possibilities and needs of the Town, *per MGL Chapter 41, Sec. 81C*.
- (g) To make and adopt a Master or Comprehensive Plan for the Town, *per MGL, Chapter 41, Sec. 81D*, and update such plan periodically.
- (h) To review and endorse Approval Not Required Plans (ANR) within 21 days of receipt, in accordance with MGL, Chapter 41, Section 81P.
- (i) To make rules and regulations, after public notice in the local newspaper, for subdivisions prescribing size, form, and contents of plans, and make amendments to such and charge filing and other fees, under MGL, Chapter 41, Section 81Q. (See Subdivision Regulations, Brookline, MA, adopted by the Planning Board, June 12, 1968, and revised March 1, 1990)
- (j) To approve preliminary and definitive subdivision plans, under MGL, Chapter 41, Sections 81S & T, in conformance with the previously adopted and amended Subdivision Regulations for Brookline.
- (k) To make recommendations to Town Meeting on proposed zoning amendments submitted.
- (l) To make recommendations to Town Meeting on the Capital Improvement Program.

B. BOARD ORGANIZATION

Section 1. Appointment

The Board of Selectmen appoint seven members in five year staggered terms to serve on the Planning Board in accordance with MGL, Chapter 41, Section 81A.

Section 2. Elections

At its first regularly scheduled evening meeting following the annual spring Town Meeting, the Planning Board shall elect a Chair and a Clerk for a one year time period.

Section 2. Power and Duties of Chair

The Chair shall preside over all meetings and hearings of the Board. Subject to the rules as stated herein, the Chair shall determine the procedures of the meeting and decide all points of order, unless overruled by a majority of the Board in session at the time; shall supervise the work of the Board; arrange for necessary help; and exercise general supervision over the Board's activities.

Section 3. Power and Duties of Clerk

The Clerk shall act as Chair in the event that the Chair is absent, disabled, does not participate in a particular matter or is otherwise unable to perform his or her duties. In the

event that neither the Chair nor the Clerk is available for a meeting/hearing on a particular matter, one of the remaining regular members shall be appointed by majority vote for that meeting/hearing or particular matter.

C. PUBLIC HEARINGS AND MEETINGS

Section 1. Quorum

A quorum for all of the Planning Board activities shall consist of four members.

Section 2. Vote

A valid vote shall be a simple majority of the members present, as long as there is a quorum. A tie vote shall be recorded as such.

Section 3. Scheduling

Regular meetings on Board of Appeals cases or hearings on proposed zoning amendments shall be held on Thursday evenings as needed and shall commence no earlier than 7:00 P.M. at Town Hall or other location as set forth in the notice for the meeting/hearing. Regular meetings on Sign and Facade cases shall be held on Wednesday mornings as needed and shall commence at 8:15 A.M. at Town Hall or other location as set forth in the notice for the meeting. If any meeting/hearing date falls on a holiday or a conflict arises, the Board may designate an alternate day or time to meet. Special meetings and hearings may be called by the Chair, the Clerk in the Chair's absence, or a majority of the Board. Notice of special meetings/hearings shall be mailed, posted, and published as required by law.

Section 4. Notice

Pursuant to §9.08 of the Zoning By-Law, at least seven days before any Planning Board meeting, whether preliminary or final, on an actual or future application for a variance, special permit, or extension of time, the Planning Board shall mail or deliver a notice of such meeting to the applicants, to immediate abutters to the subject property, to each elected Town Meeting Member for the precinct in which the subject property is located, to Town Meeting members within all immediately adjoining precincts, to all neighborhood associations registered with the Planning and Community Development Department and to all those specified on the Planning Board interoffice general distribution lists, and lists specific to a project, which may be amended from time to time. Notice to Town Meeting Members shall be in accordance with the records of the Town Clerk.

Section 5. Recusals

During a public meeting, should a member miss the testimony related to an application, that member shall recuse himself from the discussion and vote on that application. Planning Board members shall comply with the applicable State Conflict of Interest and Ethics Laws and Guidelines with respect to any real or perceived conflict and shall consult with Town Counsel and or the State Ethics Commission for guidance.

Section 6. Open Meeting Laws

All meetings shall be open to the public in accordance with the Open Meeting Laws.

Section 7. Record of Meeting

Minutes of all Board meetings shall be taken and made available to the public upon request.

Section 8. Public Forums

Quarterly, Planning Board meetings will begin with a public forum where the public is invited to comment on planning issues not on the agenda.

D. GENERAL REGULATIONS

Section 1. Conflict of Interest

All Planning Board members shall abide by the Massachusetts Conflict of Interest and Ethics Laws and Guidelines.

Section 2. Official Opinion

No member of the Board shall purport to express the official position or opinion of the Board, except in accordance with a specific vote of the Board. Personal opinions or beliefs shall be clearly identified as such.

E. MAJOR IMPACT PROJECTS (pursuant to Section 5.09.3.b of the Zoning By-Law)

Section 1. Preapplication Meetings

Pursuant to Section 5.09.3.a.and b. of the Zoning By-law, an applicant of a Major Impact Project, prior to a formal submission to the Building Commissioner, shall consult with the Building Commissioner and Planning and Community Development Director or designee for technical advice relative to the community and environmental impact and design review standards of this section and to determine if the Planning Board has adopted design guidelines which pertain to the proposed project. Further, the applicant shall meet with the Transportation Director and the Planning and Community Development Director or designee for advice on the preparation of any required transportation studies.

Section 2. Neighborhood Meetings

The applicant shall schedule and hold at least one neighborhood meeting and make good faith effort to notify abutters, tenants of abutters, Town Meeting Members, neighborhood associations, and other interested citizen groups to review the project plans, and actively promote citizen involvement throughout the review process. For Major Impact Projects, the meeting shall be convened prior to the Planning Board's preliminary meeting as required by Section 5.09.3.a.2.b.

F. DESIGN ADVISORY TEAMS

Section 1. Appointment

Pursuant to §5.09.3.d. of the Zoning By-Law, appointment of a Design Advisory Team (DAT) shall be made at a regularly scheduled board meeting, where public notice has been provided pursuant to Section 9.08.

Section 2. Composition

A Design Advisory Team (DAT) shall consist of the following: one or more Planning Board member(s); professional architect(s), landscape architect(s) or other related design professional(s); and one or more neighborhood representatives. The Planning Board may, in its discretion, also appoint representatives from other appropriate Town boards and commissions to serve on a DAT, if deemed necessary to insure coordinated project review.

Section 3. Role

The Design Advisory Team (DAT) will provide professional design review assistance to the Planning Board and the Planning and Community Development Department in the review of certain §5.09 projects, which may have a significant impact on the character of the area. The applicant may be required by the Planning Board to meet with the DAT to discuss resolution of design concerns and to include a response to the Planning Board on issues raised by the DAT. The DAT may submit a report to the Planning Board and Board of Appeals.

G. PROJECT REVIEW FEES

Section 1. Employment of Consultants

In accordance with M.G.L. c.44 §53G, the Planning Board, acting by and through the Director of Planning and Community Development, may require that applicants pay the reasonable cost for employment of outside consultants to review a proposed project. The Planning Board may use the Project Review Fee to engage experts, other than attorneys, as outside consultants to assist the Planning Board in its review process.

Section 2. Establishment of Special Account

The Project Review Fee shall be deposited with the Town's Comptroller who shall establish a special account in accordance with M.G.L. Ch. 44 §53G. Expenditures from this special account may be made at the direction of the Director of Planning & Community Development, under the overall guidance of the Planning Board, without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a Project Review Fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. The consultant's review will not commence until the Director of Planning & Community Development verifies receipt of

the project review fee. Failure of an applicant to pay a required Project Review Fee shall be grounds for finding the application incomplete.

Section 3. Reimbursement of Excess Amount

At the completion of the Planning Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. The Planning Board shall provide the applicant or the applicant's successor in interest with a final report of said account. An applicant's successor in interest shall provide the Planning Board with documentation establishing such succession in interest.

Section 4. Administrative Appeal

Any applicant may make a written administrative appeal from the selection of the outside consultant to the Board of Selectmen within twenty (20) days after the Planning Board has mailed or hand delivered notice of the selection to the applicant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Planning Board shall stand.

H. SPECIAL PERMIT AND VARIANCE APPLICATIONS SUBJECT TO PRESERVATION AND/OR CONSERVATION COMMISSION JURISDICTION

Section 1. Conservation Commission Jurisdiction

Where an applicant requires approval of a special permit and/or variance from the Board of Appeals and also requires approval from the Conservation Commission, he or she should meet with the Planning and Community Development Director or designee to discuss the needed relief and coordination of the approval process. In most cases, if variance relief is needed, the applicant will be advised to go through the Board of Appeals approval process before applying to the Conservation Commission; if, however, special permit, rather than variance relief is needed, the applicant will be encouraged to seek approval from the Conservation Commission before being heard by the Board of Appeals.

Section 2. Preservation Commission Jurisdiction

Where an applicant requires approval of a special permit and/or variance from the Board of Appeals and also requires approval from the Preservation Commission, he or she should meet with the Planning and Community Development Director or designee to discuss the needed relief and coordination of the approval process. In most cases, if variance relief is needed, the applicant will be advised to go through the Board of Appeals approval process before applying to the Preservation Commission; if, however, special permit, rather than variance relief is needed, the applicant will be encouraged to seek approval from the

Preservation Commission before being heard by the Board of Appeals.

I. APPROVAL NOT REQUIRED (ANR) SUBDIVISIONS

Section 1. Submittal Requirements

The following is required for Planning Board endorsement of An Approval Not Required (ANR) Subdivision plan in accordance with MGL Chapter 41 Section 81T: submission to the Planning and Community Development Department, with written notice to the Town Clerk that such plan has been submitted; an application and fee, a mylar plan and three copies; and an electronic plan (Autocad DWG or DXF format, or GIS Arc/Info E00 or GIS Arcview Shapefile format).

Section 2. Endorsements

Within 21 days of filing, the Planning Board at a public meeting shall determine whether or not it should endorse the plan as “An Approval Under The Subdivision Control Law Not Required”.

J. PRELIMINARY AND DEFINITIVE SUBDIVISIONS

Section 1. Rules and Regulations

Rules and regulations for preliminary and definitive subdivision plans have been adopted by the Planning Board, on June 12, 1968, and revised March 1, 1990, and January 3, 2013, in accordance with MGL Chapter 41 Section 81Q.

Section 2. Submittal and Approval Requirements

The Rules and Regulations prescribe the submittal and approval requirements and are available in the Planning and Community Development Department.

K. SIGN AND FAÇADE APPLICATIONS (pursuant to Article VII of the Zoning By-Law)

Section 1. Submittal Requirements

The applicant shall submit to the Building Commissioner a sign and façade application form, plans of the proposed sign, facade alterations, if any, photographs showing the existing building or site, and any other material as may be required by the Building Commissioner or Planning Board.

Section 2. Planning Board Referral

Within five working days, the Building Commissioner shall refer the application and

accompanying material to the Planning Board, and the Planning Board shall review the application at its next public meeting for which legal notice can be given.

Section 3. Notice

At least seven days before such meeting, the Planning Board shall mail or deliver a notice of the meeting, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located, and to those Town Meeting Members of a precinct which is within 200 feet of such property as to which such application has been made.

Section 4. Planning Board Decisions

The Planning Board shall submit its decisions in writing to the applicant and the Building Commissioner. The decisions shall be based on Article VII, Signs, Illumination, & Regulated Façade Alterations and the Design Review requirements in §5.09 and any design guidelines the Planning Board may adopt.

Section 5. Building Permit

Upon receipt of the Planning Board's report approving the application or the lapse of thirty days from his referral to the Board without such report, the Building Commissioner may issue a permit for a sign or façade alteration which conforms to the Planning Board's recommendations, the regulations in the Zoning By-law, and such other technical requirements as are within the Building Commissioner's jurisdiction.

Section 6. Appeals of Planning Board Decision

If the applicant or any other interested party or any citizen of the Town of Brookline does not agree with the decisions of the Planning Board or other requirements imposed by the Building Commissioner, he or she may appeal to the Board of Appeals within 30 days through the special permit procedure in Article IX of the Zoning By-Law.