



Wellfleet Planning Board Procedures for Special Permits

for

Affordable Dwellings
in Accordance with Section 6.28
Of the Wellfleet Zoning Bylaws

Cluster Residential Development
in Accordance with Section 6.6
Of the Wellfleet Zoning Bylaws

Communications Structures, Buildings and Appurtenances
in Accordance with Section 6.18
Of the Wellfleet Zoning Bylaws

&

Formula Businesses
in Accordance with Section 6.30
Of the Wellfleet Zoning Bylaws

Wellfleet Planning Board Rules and Procedures for Special Permits

Applications to the Planning Board for Special Permits in accordance with 6.6, 6.18, 6.28, and 6.3 of the Wellfleet Zoning Bylaws, shall be made on the form which is available at Town Hall, 300 Main Street, Wellfleet, MA 02667, Tel (508) 349-0330, together with instructions for filing.

The original, plus 11 copies of the Application and the appropriate Finding of Fact, and all attachments and plans are required: the original for the Town Clerk's files, 9 for Planning Board members, 1 for the permanent files, and 1 for the Board of Assessors.

When applicable, attachments shall include a copy of the referral of the petitioner by the Building Inspector.

Plans and dimensions of the property concerned, and the construction plans and floor plans of the structures concerned shall be provided with the application. All plans shall be drawn to scale.

A certified list of abutters and parties in interest, identified by current map and parcel numbers, together with mailing addresses, shall be provided with the application. This list can be obtained from the Assessors' Office.

The Application is not considered complete unless provided in the required number of copies, with the required plans, with the required list of abutters and parties in interest, and with the appropriate required fee.

The petition is to be filed with the Wellfleet Town Clerk, in person or by mail, at Town Hall, 300 Main Street, Wellfleet, MA 02667. Office hours are normally 8:00 a.m. to 4:00 p.m. the petitioner must also file a date and time-stamped copy of the petition with the Planning Board forthwith. The date of filing is established by the date of receipt stamped on the application form by the Town Clerk. Applications are taken according to date submitted, unless it is established by the Planning Board that the filing is incomplete.

Since legal advertisements must be published two full weeks before the date of the hearing, and approximately a week is needed to process the application and to obtain certification of the abutters' list, the hearing would normally be scheduled three to four weeks after receipt of the filing. If the schedule of the Planning Board is very busy, however, a longer period may elapse before scheduling of the public hearing. Pursuant to MGL, Ch. 40A, S. 15, the hearing must be held within 65 days from receipt of the petition by the Planning Board.

A legal advertisement of the public hearing shall be published in a local newspaper at least 14 days before the scheduled date of the hearing, and once in each of the two successive weeks preceding the hearing.

Notice of the public hearing shall be mailed to applicants and their agents when known, to property owners if different from applicants, and to abutters and parties in interest at least 7 days before the scheduled date of the public hearing, and, as a courtesy, normally 14-16 days before. Notice of public hearing shall also be posted in the Town Hall for a period of not less than 14 days before the date of the hearing, and shall be transmitted to Town officials and Town boards as deemed appropriate by the Committee Secretary.

The legal advertisement shall contained the names(s) of the petitioner(s), the name of the property owner(s) if different from the petitioner, the street address of the property in question, the parcel number and assessor's map number of the property in question, the subject matter of the hearing, the nature of the action or relief requested, and the date, time and place of the public hearing. The Notice of Petition and Public Hearing shall contain this same information, along with a brief statement of the rights of abutters and parties in interest and of the ways in which those rights may be exercised.

Members of the Planning Board shall inspect the property involved in a petition prior to the public hearing, and what is found in such viewing should be made part of the record.

An applicant may appear in his own behalf, or may be represented by an attorney or other agent. IN the absence of any appearance on behalf of the applicant, the board may decide the matter based on the information received, or it may continue the hearing and require the applicant or agent to be present.

Personal appeals by the applicant or his/her agent, orally or in writing, to individual members of the Planning Board shall not be regarded as a legitimate part of the application process or the hearing process.

Written briefs in support of the petition or in opposition to the petition shall be presented to the Board at least 48 hours before the public hearing. Presentation of written briefs at the hearing may result in the hearing being continued to another date to allow Board members to study the briefs.

Notice of Continuation of Public hearing shall be posted in Town Hall at least 3 days before the scheduled Continuation. As a courtesy and whenever possible, Notice of Continuation of Public Hearing shall be posted in the Town Hall earlier, and shall be mailed to principals, that is, the applicant and his agent, and to declared parties in interest and their agents who have requested such notice.

An application may be withdrawn by notice to the Town Clerk at any time prior to the public hearing.

Withdrawal of an application without prejudice may be allowed only if it is determined by the Board in the course of the public hearing that an alternative proposal would better suit both the applicant and the Board. The revised petition may then be presented to the board again at any time, in a new filing.

In order to have a petition which has been denied re-heard within a two-year period, the petitioner must request permission from the Planning Board, showing new evidence that substantially alters the conditions of the petition. Once the Planning Board agrees, the petitioner may re-apply to the Planning Board in the normal manner.

Once a hearing has been held and a decision rendered by the Planning Board, there shall be no reconsideration of the decision of the Board unless, after an appeal by an aggrieved party in a court of law, and as a result of a judgment in that court of law, the decision is remanded back to the Board for further consideration.

After the granting of a Special Permit by the Board, all permits necessary for the work shall be obtained from the appropriate officials and construction shall be commenced within one year from the date of filing of the Board's decision with the Town Clerk. With reference to Special Permits, reasonable extension of said time may be granted by the Board upon written request of the applicant.

Decisions of the Planning Board shall be based on the Findings of Fact made by the Board in the course of the public hearing, after hearing the presentation of the petitioner, or his/her agent(s), and after hearing representations made by parties in interest or their agents.

Petitions shall be referred to other Town boards as required by the Wellfleet Zoning Bylaws, and advice sought from those boards on aspects of the petition within their jurisdiction. Failure of any such board to make recommendations within 35 days of receipt of petition shall be deemed lack of opposition thereto.

If the Planning Board deems that further information should be provided by the petitioner, or that further clarification is needed on certain aspects of the petition, or that legal counsel should be sought, it may continue the hearing to another date and time.

A Planning Board decision shall state the basis on which approval or disapproval is given, and record the vote of each member of the Board.

The Board's decision shall be expressed in the form of a motion duly made and seconded, and carried by a minimum of four votes. Any conditions on the granting of the Special Permit shall be contained in the motion.

Decisions shall be made promptly and without undue delay. Pursuant to MGL, Ch. 40A, S. 15, decisions on Special Permits must be made within 90 days after the date of the hearing. Under Massachusetts General Laws, Chapter 40-A, Section 9, this period may be extended by written agreement between the petitioner and the Board, and this agreement is filed with the Town Clerk.

Formal decisions are written for the Planning Board by the Committee Secretary and are reviewed for the Board by the Chair, before being filed with the Town Clerk. The Chair

and the Committee Secretary sign the decisions, which become part of the public record and available by request.

The decision of the Planning Board shall be filed with the Town Clerk within 14 days. The appeal period commences from the date of filing of the decision with the Town Clerk and consists of 20 days.

After 20 days, the Committee Secretary shall obtain from the Town Clerk certification that no appeal has been made of a decision of the Planning Board and shall issue to the petitioner a Certificate of Granting of Special Permit.

Certificates of Granting are signed by the Chair and the Committee Secretary, and are to be recorded by the applicant at the Barnstable Registry of Deeds, and indexed in the grantor index under the name of the property owner of record, or noted on the owner's certificate of title. Special Appeals shall not take effect until the appeal period has lapsed, and until the Certificate of Granting has been issued and has been recorded at the Barnstable County Registry of Deeds.

The authority of the Planning Board to reverse or affirm a decision is stated in Massachusetts General Laws, Chapter 40A, Section 14.

The Planning Board is not an enforcement agency. Enforcement is invested in the Building Inspector of the Town of Wellfleet as the Zoning Enforcement Officer. The Board reserves the right to make site inspections to ensure that conditions imposed on a Special Permit granting have been met. If this is not the case, the Board may apprise the Zoning Enforcement Officer of non-compliance.

Fee Schedule

Application for Special Permit.....\$500

Filing Procedures

Important: Please see the Building Inspector, who is the Agent and Zoning Enforcement Officer for the Planning Board, before you fill out this application. He will be able to tell you whether or not you need a prior permit from another Town board. Having the Building Inspector review your project may prevent your hearing before the Planning Board having to be continued, and save time in the long run.

Applications for Special Permit

Submit the original plus 11 copies of the application for hearing & findings of fact, together with 12 copies of all attachments & plans, including, but not limited to the following:

- prints of the latest recorded plan of land concerned, or, in cases where no such plan exists, prints of a plan of land endorsed by a Registered Engineer or Land Surveyor;
- plans giving dimensions of lot(s) concerned, including area and frontage, and front, side and rear setbacks, and giving scale of plan and North arrow;
- plans showing front and side elevations if more than one story;
- floor plans where relevant.

File 3 copies of list of abutters and parties in interest by map and parcel number, together with names and mailing addresses of property owners, as supplied by the Assessor's Office. For the purpose of the Planning Board, abutting lots are considered to be (1) contiguous lots; (2) lots directly opposite on any public or private way; and (3) lots which abut directly abutting lots and which are within 300 feet of the property line of the property in question. (MGL, Ch. 40-A, S. 11).

All pertinent paragraphs of the application form must be filled out. Failure to do so will result in considerable delay. State under which section (SP) or from which section (V) of the Wellfleet Zoning Bylaw or Massachusetts General Laws you are making application.

The application must be typed or block-printed legibly.

The original must be signed by the applicant(s) and acknowledgment thereof made before a Notary Public.

Applications and Findings of Fact must be stapled together.

Plans must be folded to close to size of Application as possible.

Please give explicit instructions as to how to find and identify the site. Inability to make a site inspection will result in the hearing being continued. For example, include the name of owner of property if different from yours with street location, map and parcel number. If a site is in a remote or unbuilt area, state name of nearest major street or intersection and describe useful landmarks. Suggest a route to follow. Are there surveyor's stakes on property?

File application, plan and certified abutters' list with the Town Clerk, accompanied by the appropriate fee: Special Permit, \$500. Date of receipt by the Town Clerk counts as the filing date.

A public hearing will usually be scheduled for a Wednesday evening, three to four weeks following the application, allowing for the required advertising two weeks in advance and for the certification of abutters, and depending on the work load of the Board. A public hearing shall be held not less than 90 days after the Application has been filed.

Notice of Petition and Public Hearing will be sent to applicant(s), agent, property owner(s) and abutters two weeks before the hearing. In the case of continuation, a Notice of Continuation of Public hearing will be posted in the Town hall and sent to principals only.