



**TOWN OF HULL
BOARD OF APPEALS
RULES AND REGULATIONS**

These Rules and Regulations have been promulgated by the Hull Board of Appeals in compliance with Chapter 40A § 9, §12, and § 16 of the Massachusetts General Laws, as amended, and supersede any previous Rules and Regulations.

I. ORGANIZATION

A. Members and Officers:

The Board of Appeals shall consist of three regular and such associate members as may be appointed by the Board of Selectmen. The regular members shall elect annually from their number a Chairman and Clerk.

B. Powers and Duties of the Chairman:

The Chairman shall issue the call for and preside at all meetings and hearings, decide all points of order, prepare and submit all reports required by law, and appoint such committees as may be found necessary.

In addition to powers granted by the General Laws, the By-Laws of the Town or otherwise, and subject to these Rules and further instructions of the Board, the Chairman, or his or her designee, shall transact the official business of the Board. This includes, but is not limited to, signing purchase orders for expenditures by the Board, supervising the work of the Clerk and Zoning Administrative Assistant, requesting necessary help, directing the work of all subordinates, and exercising general supervisory powers.

C. Powers and Duties of the Clerk:

The Clerk shall have such powers and be charged with such duties as the Chairman shall designate, and shall act as Chairman when the Chairman is absent or otherwise unable to perform his or her duties. If the Clerk is absent or otherwise unable to perform his or her duties, the Chairman may designate an acting Clerk.

D. Powers and Duties of Associate Members:

The Chairman of the Board shall designate an associate member to sit on the Board in case of the absence, inability to act, or conflict of interest on the part of any Board member. In the event of a vacancy on the Board, the Chairman will meet with the Board of Selectmen to designate an alternate member to act as regular member to fill the unexpired portion of the vacant term. Alternate members are authorized to attend and participate in all scheduled hearings, and to vote if designated.

E. Powers and Duties of the Zoning Administrative Assistant to the Board:

The Board may hire a Secretary to carry out the clerical work of the Board, including but not limited to: all correspondence, keeping of records of the Board's proceedings, compilation of all required records, maintenance of necessary files, preparation and distribution of legal notice of all hearings and decisions as required by the General Laws.

F. Meetings and Hearings of the Board:

All meetings and hearings of the Board shall be open to the public, with notice thereof posted publicly as required by law. A quorum of the Board shall be three members.

G. Conflict of Interest

Any member who disqualifies himself or herself for personal interest from participating and voting upon any matter as a member of the Board shall notify the Chairman of any potential conflict or appearance of conflict as soon as practicable before the hearing, if possible, at which said matter is to be heard. If the member is so disqualified, the Chairman shall state the fact of disqualification for the record and shall designate another member to sit in the place of the disqualified member, and the disqualified member shall not participate as a Board member in the proceedings in which the matter upon which the member has disqualified himself or herself is discussed.

No member shall represent any party of interest in any matter pending before the board. Pursuant to provisions of Chapter 268A, Section 17 of the General Laws, nothing, however, in these rules shall prevent any member from appearing before the Board in favor of or in opposition to any matter in which he or she has a direct personal interest, or from acting before the Board, with or without compensation, as agent or attorney for or otherwise aiding or assisting in any such matter involving members of his or her immediate family or any person for whom he or she is serving as guardian, executor, administrator, trustee or other personal fiduciary; provided, however, that said member has disqualified himself or herself in writing in advance of the hearing from participating and voting at said hearing.

II. HEARINGS

A. **Notice:**

All hearings shall be open to the public. Notice of each hearing shall be published in a newspaper of general circulation in the Town of Hull once a week for two consecutive weeks. The first publication shall be not less than fourteen days before the day of the hearing. In addition, a copy of the notice shall be posted in a conspicuous place in the Town Office Building for a period of not less than fourteen days before the day of the hearing. A copy of the legal notice shall also be sent by mail, postage prepaid, to all "parties in interest". The notice shall contain the name of the appellant, petitioner, or applicant; a description of the area or premises, including the street address of the subject property, if any, or other adequate identification of the location thereof; the date, time and place of the public hearing; the subject matter of the hearing; and the nature of action or relief requested, if any.

B. **Representation and Absence:**

An appellant, petitioner, or applicant may appear in his own behalf or be represented by an attorney. The Board shall have the option of waiving this requirement and voting to allow the appellant, petitioner, or applicant to be represented by an engineer, contractor, surveyor, architect, or other qualified professional. In the absence of any appearance on behalf of an appellant, petitioner, or applicant, at the Hearing, the Board shall have the option of issuing a denial without prejudice (petitioner may re-file at a later date) or continuing the hearing until the Board's next hearing.

C. **Order of Business:**

1. The Chairman will call the hearing to order and read the official notice thereof as published;
2. Adequate time will be allowed for the appellant, petitioner, or applicant, or his representative, to present the case to the Board.
3. Representatives of Town Boards shall each be allowed to comment on the matter before the Board.
4. All those in favor shall be allowed to comment on the application, petition or appeal, initial comments speaking time limited to five minutes.
5. All those opposed shall be allowed to comment on the application, petition or appeal, initial comments speaking time limited to five minutes.
6. Appellant, petitioner, applicant or his attorney will be allowed to make a closing statement to the Board.
7. Members of the Board hearing the case may ask questions during the hearing process.
8. A vote of the Board will be taken at a regularly scheduled meeting of the Board.

The Chairman may modify the above as deemed appropriate.

D. Withdrawal:

An appeal, petition or application may be unilaterally withdrawn without prejudice by notice in writing to the Board prior to the publication of the legal notice. No vote of the Board approving such withdrawal is required.

After the notice of the hearing an application may be withdrawn without prejudice only by a request in writing to the Board. Said request to withdraw may be made either prior to or at the public hearing. The vote of the Board must be unanimous. Any party who withdraws an application after publication of the legal notice shall forfeit the filing fee.

E. Waiver of Requirements:

Notwithstanding the foregoing, the Board may, in its sole discretion, in public session waive any of the non-statutory provisions of this Article III, or may require additional information as it deems necessary.

F. Parliamentary Authority

Only if a Board member raises a point of order, “Robert’s Rules of Order” (most recent edition), shall be the authority on all questions of parliamentary law and proceedings regarding Board procedure not specifically covered by these rules of the Board.

III. DECISIONS

A. Voting Requirement:

A unanimous vote of the three sitting members of the Board shall be necessary in the case of any favorable decision to grant requested relief.

B. Form of Decision

All decisions shall be made in writing. The written decision shall contain the following:

1. The date the decision was rendered;
2. The name of the appellant, petitioner, or applicant;
3. The name and address of the owner, if different from the appellant, petitioner, or applicant;
4. The street address, or other identification, of the subject property;
5. The time, date and place of the public hearing;
6. A statement that the hearing was duly held;
7. Description of the relief or action sought.
8. A statement that the appeal, petition, or application is denied or granted, in whole or in

part; and, if any relief is directed, or action permitted or required, a statement thereof, including any conditions imposed.

9. A statement of the basis for the decision, with specific reference to the applicable provisions of Chapter 40A of the General Laws and/or the Zoning By-Law.

In addition to the foregoing, the written decision may include a brief account of the testimony and evidence presented.

All decisions of the Board of Appeals shall be signed by at least two Board members who heard and voted on the application in question.

C. Legal Record:

Written decisions of the Board constitute the legal record of its proceedings.

D. Filing Requirements:

The decision, and all plans referenced therein, shall be filed forthwith with the Town Clerk and the Building Department. A copy of the decision shall be filed with the Planning Board, the Fire Department, the Police Department, the Permanent Sewer Commission, the Assessor's Office, the Selectmen and Town Counsel.

E. Notice of Decision:

A written notice of decision shall be mailed forthwith to the owner, appellant, petitioner, or applicant, to the parties in interest, and to every person present at the hearing who has requested that notice be sent and stated the address to which such notice was to be sent.

Each notice shall state that appeals, if any, shall be made pursuant to M.G.L. c. 40A, §17 and must be filed within twenty (20) days after the written decision is filed in the office of the Town Clerk.

F. Town Clerk Certification and Recording:

After twenty days have elapsed from the date a decision is filed, an appellant, petitioner, or applicant may ask the Town Clerk to certify on a copy of the decision that no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied. Any relief granted shall not take effect until a certified copy of the decision, with plans if necessary, has been recorded in the Plymouth Registry of Deeds or the Plymouth Registry District of the Land Court, is indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title. It is the responsibility of the owner or the appellant, petitioner, or applicant to make and to pay the fee for such recording or registering. The Building Commissioner shall not issue a building permit until proof of recording is presented.

G. Re-application:

No application which has been unfavorably acted upon by the Board of Appeals shall be acted upon within two years of the date of the decision unless the appellant, petitioner, or applicant submits new evidence which substantially alters the unless the conditions of the appeal, petition, or application and requests consent from the Planning Board to re-apply to the Board of Appeals. The Planning Board shall give notice to the parties-in-interest regarding the time and place of the proceedings when the question of such consent will be considered. If all but one member of the Planning Board grant consent, the appellant, petitioner, or applicant shall submit the new evidence and a new application and new filing fee to the Board of Appeals, which may re-hear the matter, after proper notice, if it finds by a unanimous vote of the members sitting that there are specific and material changes in the conditions upon which the previous unfavorable action was based. The changes shall be described in the record of the proceedings at which the findings are made.

IV. POLICIES AND ADVICE

A. Advice:

Any statement, advice, opinion or information given by the Board of Appeals or any member thereof, or any statement, opinion or information given by any other official or employee of the Town, shall not be binding on the Board in the proper exercise of its discretionary powers under the Zoning By-Law.

B. Informal Meetings:

The Board of Appeals will not meet informally with applicants or their attorneys to give preliminary opinions or advice on applications which may be considered by the Board at a future time.

C. Other:

For other policies, regulations or procedures, refer to the Zoning By-Law of the Town of Hull as legally adopted and amended from time to time and to Massachusetts General Laws, Chapter 40A.

V. AMENDMENTS

A. Amendment, Revision or Repeal:

These Rules and Regulations may be amended, revised, or repealed from time to time by a majority vote of the Board of Appeals at a posted meeting. Any amendment, revision, or repeal shall become effective upon filing in the office of the Town Clerk.

B. Severability:

If any section, paragraph, sentence, clause or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged and the remainder of these regulations shall be deemed valid and effective.

*** Revision of Document approved by the Hull Zoning Board of Appeals on July 18, 2017.**