



**TOWN OF COHASSET
ZONING BOARD OF APPEALS
RULES OF PROCEDURE
(Adopted July 28, 1978)
(Revised 6/1/84, 11/6/86 & 12/7/98)
ARTICLE 1 – ORGANIZATION**

Section 1.1 – ELECTIONS

The officers of the Board shall include, but not be limited to, a Chairman, a Vice Chairman and a Clerk. The Chairman and Vice Chairman shall be chosen from among the members of the Board, and the Clerk shall be a member or an associate member.

At the first meeting following the qualification of the annual appointees, the Board shall elect its officers for the ensuing year. In the event of a vacancy in any office, at the first meeting thereafter at which the Board is at full strength such a vacancy shall be filled. Associate members may participate in such election with voice but without vote.

Section 1.2 – CHAIRMAN

The Chairman shall preside at each meeting and each hearing but shall also vote and be recorded on matters coming before the Board. Subject to the General Laws, the Cohasset Zoning Bylaws and these rules, and unless and until overruled by a majority of the Board sitting at the time, the Chairman shall decide all points of order and matters of procedure. He shall represent the Board or appoint a representative from among the members and associate members as may be found necessary or desirable for liaison with other town agencies.

In addition to powers granted by the General Laws and Town Bylaws, and subject to these rules and further instructions of the Board, the Chairman shall transact all official business of the Board, assign the writing of decisions for the Board, supervise and direct the work of all Board employees, request necessary help and exercise general supervisory powers. He shall at each meeting report on all official business that has not otherwise been brought to the attention of the Board.

Section 1.2 – VICE CHAIRMAN

The Vice Chairman shall act as Chairman and shall have all of the powers of the Chairman in the case the Chairman is absent, disabled or otherwise unable to perform these duties. In the event that both the Chairman and Vice Chairman are absent or recused, the Chairman may appoint another member to serve as Acting Chairman.

Section 1.4 – CLERK

Subject to the direction of the Board and its Chairman, the Clerk shall have charge of records of the Board, shall ensure that the roll is taken at all Board hearings and other meetings and that minutes of the Board's proceedings are kept, and shall compile and maintain other necessary files and indexes. Any or all of the foregoing duties may be delegated to an Assistant Clerk, who need not be a member or associate member.

The Clerk shall act as Chairman and shall have all of the powers of the Chairman in case both the Chairman and the Vice Chairman are absent, disabled or otherwise unable to perform their duties.

Section 1.5 – ASSOCIATE MEMBERS

The Chairman of the Board shall delegate one of the associate members to sit on the Board in case of absence, inability to act or conflict of interest of any Board member. In the event of a vacancy on the Board, the Chairman may designate one of the associate members as an acting member of the Board until someone is duly appointed and qualified to fill the unexpired portion of the vacated term.

Section 1.6 – MEETINGS

Three (3) members (including associate members designated to sit) shall constitute a quorum.

A regular monthly meeting shall be held by the Board at the Town Hall each month at such time and such day as the Board shall establish. However, the Chairman may cancel or postpone the regular meeting whenever in his opinion no meeting is required by business then pending or for other good cause.

Special meetings or hearings may be called by the Chairman or by any two (2) members. Actual notice thereof shall be given to each member at least forty-eight (48) hours before the time set, and public notice shall be posted as required by law.

ARTICLE 11 – APPLICATION TO THE BOARD

Section 2.1 – APPLICATION FORM

Every application, appeal, or petition for action by the Board shall be made on the official form, a copy of which is attached hereto and made part hereof. Copies of the official form shall be furnished by the Board upon request and shall also be available from the Town Clerk and the Building Inspector. Any communication, even if purporting to be an application, shall be treated as mere notice of intention to seek relief until such time as an application is submitted on the official form. The applicant shall file the original, completed official form and eleven (11) copies, plus two copies of the abutters list with the Town Clerk, All copies shall be marked to show the date and time of filing of the original application with the Town Clerk. All information called for by the official application form shall be furnished by the applicant, in the manner therein prescribed, before such application shall be considered. The application must specify the relief requested.

Two copies of a certified abutters list, obtained through the Assessor's Office, must accompany the application when filed with the Town Clerk. The application will be refused for filing without these lists. **[Please note that to receive an abutters list can take up to 3-10 business days and the cost to the applicant is \$25.00.]**

Section 2.2 – PLANS TO ACCOMPANY PETITION

Each application, appeal or petition to the Board shall be accompanied by at least twelve (12) copies of legible plans showing all details relevant to the relief requested. Such plans shall include, but need not be limited to, a Site Plan, any plan which would be required by Section 9.6.2 and, where appropriate, 10.3.2 of the Zoning Bylaw and, when construction or alteration of a structure is proposed, floor plans and elevations, renderings and/or photographs.

- (1) All plans shall be drawn to scale, which scale shall be stated or illustrated thereon, and proposed (as opposed to existing state) data shall be shown in red. Each plan shall be prepared by, and have the stamp of, a registered engineer, land surveyor or architect, as appropriate. The Board of Appeal may, in its sole discretion, waive this requirement.

- (2) Each application, appeal or petition shall be accompanied by twelve (12) copies of a site plan drawn to scale not smaller than (1) inch equals twenty (20) feet and showing at least the following:
- (a) a north arrow
 - (b) the lot lines and dimensions and area of the lot in question, including, in the case of a proposed sub-division or combination, those of the existing lot(s) and the proposed lot(s);
 - (c) the location of Flood Plain District and Zoning District borders (as applicable);
 - (d) the locations and dimensions of all principal and accessory buildings, other structures, driveways and parking areas on the lot(s) in question;
 - (e) the boundary lines and names of owners of all properties immediately adjacent to the lot(s) in question and the location of all principal and accessory buildings, other structures, driveways and parking areas thereon;
 - (f) the names of all streets shown on the Site Plan and the widths of all streets, sidewalks, and rights-of-way adjacent or appurtenant to the lot(s) in question; and
 - (g) any larger area and any other dimensions or details which may be necessary to an understanding of the particular application, appeal or petition or questions raised thereby; except that, in the case of an application, appeal of petition relating to a proposed change of use of an existing building or physical alteration of a structure which will not encroach on any setback, the Site Plan may omit data referred to in the foregoing clauses (d) and (e) with respect to any structure, driveway and parking areas which are more than twenty (20) feet beyond the boundaries of the lot(s) in question.
- (3) Such floor plans and elevations, renderings, and/or photographs shall be submitted as are sufficient to disclose in detail the existing structure(s) and all

proposed alterations or new construction and also to enable the Board to evaluate the impact on any other building on or within twenty (20) feet of the lot(s) in question. Floor plans and elevations shall be drawn to a scale not smaller than one-quarter (1/4) inch equals one (1) foot.

Section 2.3.1 – FILING FEES AND DEPOSITS

Each application shall be accompanied by a filing fee. Checks should be made payable to the Town of Cohasset. Any application not accompanied by a filing fee will be refused filing. Engineering Deposits are to accompany applications for Special Permits or Variances and Comprehensive Permits pursuant to M.G.L. 40B. See ZBA/Form E, as amended from time to time for current information on required fees and deposits; copies of this form shall be furnished by the Board upon request and shall also be available from the Town Clerk and the Building Inspector.

Please Note – All advertising costs will be billed directly to the applicant.

Section 2.4 – DOCKET NUMBER

Each application, appeal or petition shall, upon filing, be assigned a file or docket number comprised of the last two digits of the year, and/two digits each indicating the day and month on which it is filed with the Town Clerk. Thus, the petition filed on May 4, 1984 was numbered 84-05-04.

Section 2.5 – NONCOMPLYING APPLICATIONS

In the event that the Chairman or the Board deems an application inadequate to a proper understanding of the matter or otherwise incomplete or not properly filed the applicant shall be so notified in writing and given the opportunity within a specified period (not less than seven (7) days after the date of the notice) to bring the application into compliance. An application which is the subject of such notice but is not brought into compliance within the period specified in such notice may be rejected or denied for failure to comply with these Rules.

ARTICLE III – HEARINGS

Section 3.1 – NOTICE

Notice of the Board’s public hearing shall be given as provided in General Laws Chapter 40A, Section 11. Notice of hearing shall be published in a local newspaper as required by General Laws, Chapter 40A, Section 11. Copies of the notice shall, at least fourteen (14) days prior to the date of the hearing, be posted in a conspicuous place in Town Hall. Copies shall also be sent by mail, postage prepaid, to the applicant, to all “parties in interest” as defined in Section 11 of Chapter 40A. In the sole discretion of the Board, notice may also be given to the owners of all other property deemed by the Board to be affected thereby as they appear on the most recent tax list, and to all other persons specified by law.

In addition, a copy of that notice shall be delivered by hand or sent by mail, postage prepaid, to each of the Town Clerk and the Planning Board, Building Inspector, Board of Health, Conservation Commission and Board of Selectmen.

The instructions, a copy of which is attached hereto as Form B and made part of hereof shall be enclosed with the copy of the notice sent to the applicant.

Section 3.2 – WRITTEN STATEMENTS

Any written statement, including but not limited to a legal brief, filed with the Town Clerk not later than the day of the hearing or submitted to the Board prior to or at the hearing will be received and considered. Such written statements may, but need not, be read publicly at the hearing. The Board may also receive and consider written statements within such time after the hearing as may be fixed by the Board in its discretion.

Section 3.3 – APPEARANCES

All hearings shall be open to the public. No person shall be excluded unless he persists in disorderly behavior after being warned by the Chairman. Any person may appear in his own behalf or be represented by an agent or attorney in fact and/or by an attorney at law. The unexcused absence of any appearance on behalf of an applicant may be deemed to be cause to

deny the application for want of prosecution. However, the Board may decide on the basis of such information as is available to the Board.

Section 3.4 – PROCEDURE AT HEARINGS

Each person before commenting shall state his or her name and address and representative capacity.

All statements at the hearing will be made to the Board and all questions and comments must be made through the Chairman. No person may address the public hearing without the permission of the Chairman. No dialogue between persons attending the hearing will be permitted. Except to answer a specific question at the request of the Board, and except as otherwise specifically permitted by the Chairman, no person will be recognized more than once until everyone who desires to be heard has had the opportunity to speak once. Every speaker is encouraged to be concise and to avoid repetition; a speaker may join in or incorporate by reference any statements previously made.

Persons shall be recognized in the following order unless otherwise permitted by the Chairman.:

First, principal statement by applicant, second, statements by representatives of other Town Boards, third, statements in support of the proposal, fourth, statements in opposition to the proposal, fifth, other questions and statements, sixth, rebuttal statement by applicant.

The members of the Board sitting may ask questions at any time during the hearing.

Section 3.5 - CONTINUANCES

When the Board deems the plans accompanying an application to be insufficient for a proper consideration of the matter or otherwise deems a continuance to be desirable for orderly administration of the matter being heard, the Board may continue the hearing to a date and time certain. If the date and time of continuation is announced during the hearing, such continued hearing may be held without further application, notice or advertisement.

Section 3.6 – REQUEST FOR NOTICE

Any request for notice of decision pursuant to section 15 of General Laws Chapter 40A must be submitted to the Chairman in person at the hearing. Such request shall be in writing and

shall include the name of the applicant, the hearing date, and the full name and complete address of the person requesting the notice.

ARTICLE IV – DISPOSITION BY THE BOARD

Section 4.1 – WITHDRAWAL

An application may be withdrawn without prejudice by notice in writing filed with the Town Clerk at any time prior to the first publication of notice of the public hearing by the Board. After such first publication, withdrawal shall require the Board's approval and shall be upon such conditions as the Board may specify.

If the notice is received prior to the placing of the advertisement, the fee shall be refunded.

Section 4.2 – DECISION

In each case the Board shall file a formal, written memorandum setting forth clearly a summary of plans and evidence presented, the Board's findings and conclusions, and the reason or reasons for the Board's decisions and actions.

Except as otherwise provided in these rules and with respect to procedural matters, the unanimous vote of at least three members or designated Associate Members of the Board shall be necessary in any action by the Board. In the case of an application for a special permit or variance or an appeal of the Building Inspector's decision, votes must be unanimous. The Board's memorandum of decision shall show the vote of each member or designated Associate Member voting in the decision of that case or, if failing to vote, indicate that fact.

The Board's decision shall be effective as of the date it has been filed with the Town Clerk.

Section 4.3 – RECORDING

It shall be a condition precedent to the exercise of any right pursuant to any decision of the Board that notice of the decision (and of the absence of any appeal therefrom within twenty (20) days after the Board's written decision has been filed with the Town Clerk) be recorded, at the applicant's expense, in the Norfolk County Registry of Deeds. ZBA/Form C, a copy of which is attached hereto and made part hereof, may be used for that purpose.

Section 4.4 – EFFECT

The decision of the Board relates only to requirements of the Zoning Bylaw and does not excuse the applicant from compliance with the building code and all other applicable laws and bylaws. Despite favorable action of this Board, each applicant must secure a building permit and all other necessary approvals and permits from other Town agencies. These agencies may include, but may not be limited to, the Board of Health, the Historic District Commission, the Conservation Commission and the Planning Board, before taking any action permitted by such favorable actions.

Section 4.5 – NOTICE OF DECISION

A copy of the Board's written decision shall be forthwith mailed, postage prepaid, to the applicant and delivered in hand or mailed, postage paid, to the Planning Board.

Notice of the Board's decision shall also be forthwith mailed, postage prepaid, to the petitioner, applicant or appellant, to the parties in interest designated in General Laws, Chapter 40A, Section 11, and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Such notice shall specify that appeals, if any shall be made pursuant to General Laws, Chapter 40A, Section 17 and shall be filed within twenty days after the date of filing the decision in the office of the Town Clerk.

Section 4.6 – APPROVAL

Whenever a decision expressly requires plans to be approved by the Board, the purpose of such approval is to ensure that the applicant understands and will properly implement the Board's decision. Accordingly, unless the Board otherwise determines, neither such approval, nor approval of an insubstantial departure from plans submitted and approved shall require notice or public hearing.

Section 4.7 – REPETITIVE PETITIONS

In order to have an application, appeal or petition heard within two years after final denial of a request for the same relief (unless such denial was without prejudice), applicant must comply with the provisions of General Laws Chapter 40A, Section 16.

Section 4.8 – LIMITATIONS

If any application for a variance is granted by the Board, all permits necessary for the prosecution of the work shall be obtained and construction shall be commenced within one year

from the date of filing of the Board's decision in the office of the Town Clerk. In the case of the granting of a Special Permit that period of time shall be two years. However, a reasonable extension of time may be granted by the Board without reapplication or public hearing for good cause shown. Any request for such an extension should be made in accordance with ZBA/Form B – Instructions for Filing with ZBA.

ARTICLE V – GENERAL

Section 5.1 – EFFECTIVE DATE

These rules took effect July 28, 1978, and were revised on 6/1/84, 11/6/86, 12/7/98 & 2/12/08

Section 5.2 – AMENDMENTS

These rules may be amended at any time by the affirmative vote of (?)two members of the Board. Associate members may participate in consideration of any such amendment with voice but without vote.

No amendment shall be applicable, before such amendment is filed with the Town Clerk. The rules in effect at the time an application, appeal or petition is filed shall, despite any amendment, govern all proceedings before the Board with respect to such application, appeal or petition.

Section 5.3 – WAIVER

The Board may, by majority vote, waive any provisions of these rules in a particular case for good cause shown, provided that such waiver shall not be inconsistent with any provisions of the Cohasset Zoning Bylaws or Chapter 40A of the Massachusetts General Laws.