

## 2.2 BOARD OF APPEALS

### 2.2.1 Establishment

A Board of Appeals of five members shall be appointed by the Selectmen in accordance with the provisions of Chapter 40A of the General Laws, as amended. The Board of Selectmen shall also appoint in like manner two associate members of the Board of Appeals; and in case of a temporary vacancy, absence, inability to act, or conflict of interest on the part of a member of said Board, his place may be taken by an associate member designated by the Chairman or Vice Chairman of the Board of Appeals.

### 2.2.2 Powers

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 23B, 40A, 40B and 41 of the General Laws, and by this Bylaw, those powers being to hear and decide applications for Special Permits upon which the Board is empowered to act under this Bylaw; to hear and decide petitions for variance, excluding variances for use, to hear and decide other appeals from any aggrieved person, officer, or board; to issue comprehensive permits as provided by Sections 20-23, Chapter 40B, G.L.; in special cases to issue withheld building permits as provided by Section 81Y, Chapter 41, G.L.; and to act on appeals under the Commonwealth of Massachusetts State Building Code, as provided by Section 23 of Chapter 23B, G.L.

### 2.2.3 Special Permits

#### 2.2.3.1 Special Permit Granting Authority

Special Permit applications shall be heard and decided upon by the Board of Appeals, except in the case where some other Special Permit Granting Authority is specified by this Bylaw.

#### 2.2.3.2 Criteria

Special Permits provided for in the Zoning Bylaws shall be granted only upon determination by the Special Permit Granting Authority that the activity may be carried out without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw, upon consideration of environmental, economic, fiscal, traffic, public facility, visual, and social consequences. Such permits may also impose conditions, safeguards and limitations on time or use.

#### 2.2.3.3 Expiration

Special Permits shall lapse twenty-four (24) months following grant thereof (excepting such time required to pursue or await the determination of an appeal referred to in Section 17, Chapter 40A, G.L.) if a substantial use or construction has not sooner commenced except for good cause.

#### 2.2.3.4 Public Hearing

Special permits or any extension, modification, or renewal thereof shall only be issued following public hearings held within sixty-five (65) days after filing a complete application with the Town Clerk, a copy of which shall forthwith be filed by the applicant with the Special Permit Granting Authority (SPGA) or its agent. The decision of the SPGA regarding a special permit or any extension, modification, or renewal thereof, shall be made within ninety (90) days following the date of the close of the public hearing. Failure by the SPGA to take final action within said ninety (90) days or extended time, if applicable, shall be deemed to be a grant of the special permit in accordance with, and subject to, the requirements of the twelfth paragraph of Massachusetts General Laws, chapter 40A, section 9 (MGL c. 40A, s. 9). The required time limits for a public hearing and said action may be extended by written agreement between the applicant and SPGA, filed with the town clerk. Said decision shall be filed in writing at the Town Clerk's office within fourteen (14) days of the date the decision is made, and notice of the decision shall forthwith be mailed to the petitioner, applicant, or appellant, and to the parties in interest designated in MGL c. 40A, s. 11, and to every person present at the hearing who so requested and who stated the address to which said notice was to be sent.

#### 2.2.3.5 Planning Board Associate Member

A majority of the joint members of the Board of Selectman and Planning Board may appoint an associate member of the Planning Board. Such associate member, when designated by the chairman of the Planning Board, may serve

on the Planning Board for the purpose of acting upon a special permit application, in case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board. Said associate member shall be appointed for a term of two years.

#### 2.2.3.6 Rules and Regulations

Such Special Permit Granting Authority may adopt and from time to time amend rules and regulations and charge a fee relative to the issuance of such permits, and shall file a copy of said rules in the Office of the Town Clerk. Such rules may prescribe the application, size, form, contents, style and number of copies of plans and specifications and the procedure for submission and approval of such permits.