

**ASHBURNHAM PLANNING BOARD**

**RULES AND REGULATIONS**  
**FOR**  
**ACCESSORY DWELLING UNIT SPECIAL PERMITS**



Adopted February 28, 2008

**ASHBURNHAM PLANNING BOARD**

John MacMillan, Chair  
Robert MacLeod  
Joseph Kalagher, Vice Chair  
Bruce Whitney, Clerk  
Thomas Ruble

## **1.0 INTRODUCTION**

In the Town of Ashburnham, Accessory Dwelling Units are allowed by Special Permit from the Planning Board in the following use districts – RA, RB, VC and GB. The Planning Board is authorized to allow a special permit for both attached and detached accessory dwelling units. See Ashburnham Zoning Bylaw §5.16 Accessory Dwelling Units and §3.22, m and n, schedule of use Regulations.

The Planning Board’s decision to grant a Special Permit depends on the circumstances and conditions peculiar to each application.

The Applicant may request a meeting to review an Accessory Dwelling Unit plan before a formal filing of an application.

## **2.0 ORGANIZATION**

2.1 When the Planning Board acts as a Special Permit Granting Authority, (SPGA) the SPGA shall consist of the five (5) Planning Board members and the officers of the Planning Board shall fill the same positions with the SPGA as they occupy as Planning Board members. The chairperson shall preside over all hearings subject to the rules as stated herein and shall decide all points of order unless overruled by a majority of the Planning Board in session at the time. The chairperson shall appoint such committees as may be deemed necessary or desirable from time-to-time. The chairperson shall handle all correspondence of the Planning Board, the sending of all notices required by law and the rules and orders of the Planning Board and shall receive and scrutinize all petitions and applications for compliance with the rules of the Planning Board.

2.2 A quorum for the purpose of conducting public hearings shall consist of four (4) members.

2.3 Hearings of the Planning Board shall be held at the time and place specified in the hearing notice.

## **3.0 SUBMISSION REQUIREMENTS**

3.1 The applicant shall submit ten (10) copies of “Application for Accessory Dwelling Unit Special Permit”.

3.2 Ten (10) copies – no less than 11” x 17” showing the proposed interior and exterior changes. Plan should show all room dimensions. Plan to show that the accessory dwelling unit is a complete and separate housekeeping unit. Any new outside entrance shall be located on the side or rear of the building.

3.3 Parking Plan showing at least one (1) additional parking space along with the requirements of §5.32 of the Zoning Bylaw.

3.4 An Assessors certified list of names of all abutters and owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet (300’) of the property line of the petitioner as they appear on the most recent applicable tax list.

3.5 A notarized letter stating that the owner will occupy one of the dwelling units on the premises.

3.6 The Applicant must provide documentation, endorsed by the Board of Health or its agent, that the proposed accessory apartment conforms with all state and town health and sewage disposal regulations.

3.7 Additional information may be requested from the applicant by the Planning Board.

## **4.0 PROCEDURES**

The following steps are required by M.G.L., c.40A, § 9 for the issuance of a special permit:

- 4.1 The Applicant must file the application with the Town Clerk (the date of such filing is hereafter referred to as the "filing date");
- 4.2 The Applicant must file a copy of the Application (showing the date and time of filing as certified by the Town Clerk) with the Planning Board;
- 4.3 The Planning Board must post a Notice of Public Hearing; have the Notice published in the newspaper; and mail the Notice to Parties in Interest as defined by M.G.L., c.40A, § 11;
- 4.4 The Planning Board shall request recommendations from the Fire Department, Conservation Commission, Building Inspector, Board of Health, DPW Director and the Historical Commission (Village Center Zoning District only).
- 4.5 The Planning Board must hold a Public Hearing within 65 days from the date of filing of the Application with the Town Clerk, unless the Applicant and the Planning Board agree in writing to an extension;
- 4.6 Within 90 days after the close of the Public Hearing, the Planning Board must make a Decision, file it with the Town Clerk, and notify the Parties in Interest;
- 4.7 If the Permit is granted, the Applicant must record it at the Registry of Deeds. (See § 10)

## **5.0 FEES AND CHARGES**

All Planning Board fees are non refundable filing fees to cover the cost of processing applications. All expenses for advertising, abutter notices, publication of notices, engineering, professional planning review, legal review, plans, inspection of construction, recording and filing of documents required by the Planning Board or its agent shall be the responsibility of the applicant. Administrative Fees are not part of the regulations and their content may be revised from time to time by administrative action of the Board, without a public hearing. The Board, at its discretion, may waive certain fees. The Fee Schedule is available in the Land Use Office.

## **6.0 PUBLIC HEARING**

- 6.1 The Planning Board must hold a public hearing within 65 days of the Filing Date unless the Applicant and the Planning Board agree in writing to an extension. A copy of any written extension agreement must be filed with the Town Clerk.
- 6.2 The Planning Board must mail notices of public hearing to the Applicant and all Parties in Interest and must publish the first newspaper notice at least 14 days before the hearing.

## **7.0 DECISION**

- 7.1 The Planning Board must make its decision on the Special Permit within 90 days of the close of the Public Hearing or within such extension of time as may have been agreed in writing between the Applicant and the Board. A decision to grant a Special Permit requires 4 out of 5 votes in favor of the grant.
- 7.2 The Planning Board must:
  - a. File with the Town Clerk a copy of its decision including a detailed record of its proceedings,
  - b. Promptly mail a copy of its decision to the Applicant, and
  - c. Promptly mail Notices of Decision to the Parties in Interest and to the town departments.

- 7.3 The Date of Filing of the Decision is the date when the decision of the Planning Board has been filed with the Town Clerk.
- 7.4 If the Planning Board fails to make a decision within 90 days of the close of the Public Hearing or within such extension of time as may have been agreed upon in writing between the Applicant and the Board, the Special Permit shall be deemed to have been granted (M. G. L., c.40A, § 9).

## **8.0 APPEAL PERIOD**

Any person aggrieved by the Special Permit decision may file an appeal. The Appeal Period lasts 20 days from the Date of Filing of the Decision. Notices of any appeal made to the Superior Court or Land Court must be received by the Town Clerk within those 20 days (M. G. L., c.40A, § 17.)

## **9.0 LAPSE OF SPECIAL PERMIT**

- 9.1 Failure to record the Special Permit, covenants, agreements easements and all documents associated with the approval within 60 days of the completion of the appeal period shall cause the Special Permit to lapse unless approval has been extended by the Board and said extension filed in the Town Clerk's office.
- 9.2 The rights granted by the Special Permit shall lapse if they are not exercised within two years of either of the following:
- a. The expiration of the Appeals Period, or
  - b. If appeal has been taken from the decision to grant the Special Permit, the date on which the court has dismissed or denied such appeal.

## **10.0 CONDITIONS PRIOR TO CONSTRUCTION**

Conditions necessary before the Special Permit is effective:

- 10.1 The Appeal Period has elapsed without appeal, or, if appealed, the court has dismissed or denied the appeal;
- 10.2 The Special Permit and covenants, agreements and easements must be recorded by the applicant in the Northern Worcester County Registry of Deeds ("Registry"). Proof of recording must be submitted to the Planning Board;

NOTE: The copy of the Special Permit to be recorded must bear the certification of the Town Clerk that the Appeal Period has elapsed (M.G.L., C.40A, § 11.) A separate certification prepared by the Town Clerk shall meet this requirement.

## **11.0 AMENDMENTS TO SPECIAL PERMIT**

Submission requirements for requests to amend a Special Permit are the same as for the original Application for a Special Permit.

## **12.0 ADMINISTRATION**

- 12.1 Waivers.

A waiver of strict compliance from these Rules and Regulations and/or Section 5.16 of the Zoning Bylaw may be granted if the Planning Board determines that such a waiver is in the public interest and not inconsistent with the Zoning Bylaw. All requests shall identify the provision or provisions of the regulations from which relief is sought. The request shall also include a statement explaining why the

applicant thinks that granting a waiver would be in the public interest and not inconsistent with the purpose and intent of these Rules and Regulations and the Zoning Bylaw.

#### 12.2 Amendments.

These Rules and Regulations may be amended by a majority vote of the Planning Board at a regularly scheduled meeting after a public hearing duly advertised once in a paper of general circulation no less than seven days prior to the date of the public hearing.

#### 12.3 Validity.

The validity of any section or provision of these rules & regulations shall not invalidate any other section or provision thereof.

#### 12.4 Effective Date.

The effective date of any amendment shall be the date such amendments are filed with the Town Clerk.