

Special Permit Issuance Rules

Special Permit Issuance Rules

1. An applicant for a Special Permit for a use or activity requiring such permit from the Planning Board (the "Board") under the Zoning By-Law, shall file with the Town Clerk Five (5) Copies of the Application, all substantially on the form Exhibit I hereto and each accompanied by:
 - a. A plot plan (at least 8 1/2 " by 11") showing the dimensions of the lot and area, existing and proposed buildings and respective dimensions, including floor areas and distance from lot lines, all to scale, with a north arrow;
 - b. If construction is to be more than one story, an exhibit reflecting front and side elevations to scale; and
 - c. A list of the "parties in interest" including the names and addresses of the applicant and owner, abutters, owners of land directly opposite the property on any public or private street or way and abutters to the abutters within the three hundred (300) feet of the property line. All names and addresses shall be obtained from the most recent applicable tax list maintained by the Assessors. The list of names and addresses accompanying the application shall be on the form Exhibit VII and shall be certified as correct by the Board of Assessors or its designee.
2. All pertinent sections of the application form must be completed, and all information required by the form shall be concisely stated. If there is insufficient space in the form, additional sheets may be attached bearing the applicable section number and containing the additional information.
3. Any communication purporting to be an application shall be treated as mere notice of an intention to apply for such an application until such time as it is made on the approved application form. The Board shall only consider a completed form.
4. Notwithstanding any of the foregoing, The Board may, in its sole discretion, waive any of the provisions of Sections 1, 2, 3, inclusive and may require additional information as it deems necessary.
5. The original of the application form shall be signed personally by the applicant.
6. The Board will schedule a Public Hearing with respect to any duly filed application at the earliest possible date, but no later than Sixty-Five (65) days after filing of the application depending upon the availability of needed information and response from other interested Boards and Agencies, and publication time as required by Section 9 of Chapter 40A of the General Laws of Massachusetts.
7. The notice of Public Hearing shall be substantially in the form of Exhibit II and shall include:
 - a. The name of the applicant(s);

- b. A description of the area or premises;
 - c. The location of the area or premises including a street address, if any;
 - d. The subject matter of the Public Hearing;
 - e. The date, time and place of the Public Hearing; and
 - f. The nature of action or relief requested.
8. Notice of the Public Hearing shall be:
- a. Published in a local newspaper once in each of two (2) successive weeks. The first publication may not be less than fourteen (14) days before the date of Public Hearing.
 - b. Posted in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the date of the hearing
 - c. Mailed, postage prepaid not less than fourteen (14) days before the date of the Public Hearing to "parties in interest" which shall include the applicant, abutters, owners of land directly opposite on any public or private street or way, the abutters to the abutters within three Hundred (300) feet of the property line, the Board, and the Planning Board of every abutting city or town; and
 - d. Mailed to other individuals, boards or agencies as deemed advisable by the Board.
9. If the Board has requested a review of Special Permit Applications by other boards or agencies, these boards or agencies shall make recommendations if so desired, and send them to the Board within thirty-five (35) days after they receive the application. Failure of a board or agency to report within the thirty-five (35) days shall be deemed no opposition.
10. It is recommended that every applicant appear at the Public Hearing prepared to substantiate the following propositions:
- a. That the proposed use will be in harmony with the general purpose and intent of the Zoning By-Law;
 - b. That the specific site is an appropriate location for such use.
 - c. That the specific site has adequate public sewerage and water facilities or suitable soil for on-lot sewerage and water systems;
 - d. That the proposed use as developed will not adversely affect the neighborhood;
 - e. That there will not be a nuisance or serious hazard to vehicles or pedestrians presented or caused by the proposed use; and

- f. That adequate and appropriate facilities will be provided for the proposed use.
11. An applicant may appear at the Public Hearing on his own behalf or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an applicant, the Board may decide on the matter using the information it otherwise receives at the Public Hearing.
 12. Within ninety (90 days) following the date of the Public Hearing, the Board shall take final action. If this Board fails to take final action within the ninety (90) day limit, the Special Permit shall be deemed granted.
 - a. Note: The issuance of a Special Permit requires a two-thirds vote of the Board if it has more than five (5) duly qualified members, a vote of at least four (4) members of a five (5)-member board, and a unanimous vote of a three (3)-member board. These voting requirements apply to absolute Board membership as opposed to quorums present from time to time.
 13. Before granting a Special Permit, the Board shall find that the proposed use or activity is in compliance with all provisions and requirements of the Zoning By-Law, and in harmony with its general purpose and intent.
 14. Special Permits may be issued subject to such conditions, safeguards, or limitations on time or use as the Board may impose for the protection of neighboring uses or otherwise serving the purposes of the By-Laws. Such conditions, safeguards and limitations shall be imposed in writing.
 15. The Board shall keep detailed records of its proceedings, which will indicate:
 - a. The vote of each member upon each question, including whether the member was absent or failed to vote;
 - b. The reason or reasons for the Board decision; and
 - c. The official action taken.
 16. Upon the granting of a Special Permit, the Board shall:
 - a. File a copy of its decision together with the record of its proceedings and plans, if any, with the Town Clerk;
 - b. Mail a certified copy of its decision to the owner and to the applicant if other than the owner; and
 - c. Send a notice of the decision to the "parties in interest" and to persons who requested a notice at the Public Hearing.

17. A Special Permit shall not take effect until:
 - a. The Town Clerk certifies, on a copy of the decision issued by the Board, to the owner that twenty (20) days have elapsed without filing of an appeal or that any appeal filed has been dismissed and denied; and
 - b. The certified copy of the decision has been recorded at the owner's expense in the Essex South Registry of Deeds, indexed in the Grantor Index under the name of the Record Owner, and noted on the Owner's Certificate of Title, if any.
18. If an application is unfavorably acted upon, the applicant may not reapply within two (2) years except by:
 - a. First requesting the Board's consent to such action;
 - b. Having the Board, before voting on whether to give such consent, notify all "parties in interest" of the time and place when the question of such consent will be considered;
 - c. Having the Board (by the majority described in Section 12) make findings of specific and material changes in the conditions upon which previous unfavorable action was based, describing such changes in the record of its proceedings; and
 - d. Receiving the consent of all or all but one of the members of the Board.
19. Any application for special permit may be withdrawn without prejudice by notice in writing to the Board prior to the publication of the first Public Hearing notice. Once the notice has been published, a withdrawal without prejudice may only be with the approval of the Board. If an application is withdrawn, the filing fee shall be forfeited.
20. These rules and regulations may be amended, revised or repealed from time to time by a majority vote of the Board. Any such amendment, revision or repeal shall become effective upon filing with the Town Clerk.
21. Any advice, opinion or information given to an applicant by any Board Member or any Official Employee of the Town of Essex shall not be binding on the Board.

Exhibit I: Application for a Special Permit

To be completed and submitted by the Applicant

1. Address of property:

2. Town of Essex – Tax Map Information: Map _____, Lot _____

3. Name and contact information of each Applicant

Name: _____, Address: _____

Phone: _____, Email: _____

Name: _____, Address: _____

Phone: _____, Email: _____

Name: _____, Address: _____

Phone: _____, Email: _____

4. The Owner(s) of Record – If name of Applicant differs

Name: _____, Address: _____

Phone: _____, Email: _____

Name: _____, Address: _____

Phone: _____, Email: _____

Name: _____, Address: _____

Phone: _____, Email: _____

5. Registry of Deeds Information as recorded at the Southern Registry of Deeds

Book _____ Page _____ *Or if registered in the Southern Registry District of Land Court*

Certificate Number _____, Book _____, Page _____

6. Contact Information of Engineer (if applicable):

Name: _____, Address: _____

Phone: _____, Email: _____

7. Contact Information of Attorney or Other Representative(s): (if applicable and if other representatives please note their role in representation):

Name: _____, Address: _____

Phone: _____, Email: _____

Name: _____, Address: _____

Phone: _____, Email: _____

8. Describe proposed use or activity requiring a special permit (include documentation of proposed construction required pursuant to the Rules and Regulations Relating to Special Permits):

The undersigned submits under oath the information and representations contained in all statements made herein for consideration by the Planning Board in its determination of this application.

I / We, hereby request a Public Hearing before the Town of Essex Planning Board, Acting as the Special Permit Granting Authority.

Signed this _____ day of _____, 20_____

(Signature of Applicant/Owner)

(Signature of Applicant/Owner)

(Signature of Applicant/Owner)

(Signature of Applicant/Owner)

- ✓ Attach Exhibit VI – List of Abutters
- ✓ Application must be date stamped by the Town Clerk

EXHIBIT II: Notice of Public Hearing

To be completed and submitted by the Planning Board. The Planning Board is not required to complete this specific form and may decide to write the Public Hearing Notice following a similar outline of information.

Town of Essex, Massachusetts – Planning Board

Acting as a Special Permit Granting Authority

Notice is hereby given that the Essex Planning Board will hold a Public Hearing on at the _____ (location),

on _____ (date & time),

on the application by _____ for a Special Permit under Section _____, of the Town of Essex Zoning By-Law . *(Describe the subject matter of the Public Hearing)* _____

(Identify the location of the area or premises)

_____.

Essex Planning Board

**EXHIBIT III – Decision of Special Permit or Any Extension, Modification or
Renewal of Special Permit**

To be completed and submitted by the Planning Board. Neither the Planning Board nor the Town Clerk are not required to complete this specific form and may decide to write the Decision following a similar outline.

Approval of Special Permit Application

Date: _____

To: *(Name and Address of Owner)* _____

Affecting the rights of the owner with respect to the use of premises on *(Identify Land Affected)*

The record title standing in the name of *(Name and Address)*

by a deed duly received in the Southern District Registry of Deeds in Book _____ Page _____,
Certificate _____.

Notice is hereby given that following the Public Hearing on *(date)* _____,

on the application in this case so as to permit _____. The Board, at its meeting on *(date)* _____ VOTED TO GRANT the application under Section _____ of the Zoning By-Law based on findings as detailed in the Record of Proceedings, subject to the following conditions, safeguards and limitations on use or time, if

any: _____

_____.

Denial of Special Permit Application

This is to certify that the above action was taken in compliance with the statutory requirements as set forth in Chapter 40A of the General Laws, and that copies of the Decision with the Record of Proceedings and plans referred to in the decision, if any, were filed with the Town Clerk and the Planning Board on *(date)* _____.

Any appeal from this decision can be made only to the Court and must be made pursuant to Section 17, Chapter 40G (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of this decision with the Town Clerk.

Essex Planning Board Acting as Special Permit Granting Authority

Planning Board Chair Signature

Date

Planning Board Clerk Signature

Date

Certificate by the Town Clerk for Filing of the Decision in the Registry of Deeds

This is to certify that twenty (20) days have elapsed since filing of the Decision for the property/subdivision located at *(address)* _____ by the Planning Board with Town of Essex Town Clerk's Office and that no Appeal has been filed, or an Appeal has been filed and denied in the case.

Signature and Seal of the Town Clerk

Date

Exhibit IV: Record of Proceedings for Special Permit

To be completed and submitted by the Planning Board. The Planning Board does not need to complete this specific form and may decide to write the decision following a similar outline.

Date: _____

Record of Proceeding on Application for Special Permit

I, _____, Clerk of the Planning Board, hereby certify that the following is a detailed record of all the proceedings of the Board relative to the property located at,

_____, Essex, Massachusetts 01929,

for a Special Permit under Chapter VI, Section _____ of the Essex Zoning Bylaw.

The following parties presented the Application:

_____ (Name) _____ (Name) _____ (Name)

_____ (Name) _____ (Name) _____ (Name)

On _____, 20____, an Application was presented to the Town Clerk.

A Notice of the Public Hearing, was published, posted, and mailed to the parties of interest as indicated below:

The Notice was mailed to the Abutters and Owners of land within 300 feet of the property line as named in the certified List of Abutters and to the required abutting cities/towns on

_____, 20____;

The Notice was hand delivered to the required Town of Essex Boards, Commissions, and Departments on _____, 20____;

The Notice was published in a newspaper of general circulation in the Town on _____, 20___ & _____, 20____

The Notice was posted by the Town Clerk in a conspicuous place in the Town Hall on _____, 20____;

Following the Public Hearing the Board made specific findings regarding the property in question and the proposed use:

The following conditions shall apply:

The Board Voted at the Meeting on _____ 20____.

A Motion was made by _____ (*Board Member*) to

_____ (*Approve/deny*) the Special Permit Application

and _____ (*Board Member*) Seconded the Motion.

Upon Roll Call Vote
(Approved/denied)

Board Member	Vote

