

Chapter 345

Planning Board

[HISTORY: Adopted by the Planning Board of the Town of South Hadley as amended 8-19-2019, and 6-13-2022. Subsequent amendments noted where applicable.]

§ 345-1 Purpose.

These regulations and fee schedules have been adopted to produce more consistent application requirements and a more equitable schedule of fees which more accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by MGL c. 44. § 53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Planning Board.

§ 345-2 Application procedure.

- A. Each application for review by the Planning Board shall be submitted to the Planning Board, accompanied by two paper copies and one digital copy of each complete application submittal (this shall include the completed and signed applicable application form, related project narrative, site plan, and other supporting materials). Each copy of the submittal is to be properly collated prior to submittal. A copy of said application shall be concurrently filed with the Town Clerk.
 - (1) In the case of an application for an Approval Not Required (ANR) Plan, the applicant is to also submit two Mylar copies of the proposed plan.
- B. The date of receipt by the Town Clerk shall be considered the date on which the application has been filed with the Planning Board.
- C. The digital copy shall be in a format acceptable to the Town Planner/Planning Director which will allow transmittal via email and posting on the Town's website. Generally, the digital copy is to be in a portable document format (PDF) unless the Town Planner/Planning Director determines a different format is equally acceptable. The digital copy may be submitted to the Town Planner/Planning Director via email the same day on which the paper copies are submitted or contained on a computer disk or external drive submitted with the paper copies.
- D. The Planning Board reserves the right to require submittal of up to nine additional paper copies of the application submittal (or portions thereof) if the reviewing departments or Planning Board members request such materials.
- E. Modifications of application materials or subsequent supplemental materials related to pending applications shall be submitted in the same quantity and formats as the original application submittal. Modified and/or supplemental materials must be submitted a minimum of three (3) full business days prior to a scheduled public hearing or public meeting for the Board's consideration. It is at the Board's discretion to delay consideration of any materials submitted less than three (3) full business days prior to a scheduled public hearing or public meeting to a later date.
- F. Any project (other than an ANR Plan) proposed to be carried out within the DEP Zone II or DEP Zone III of the Dry Brook Public Water Supply Well is to include an assessment of the proposed development's impact on the public drinking water supply.
- G. For any application (other than for an ANR Plan) for a project proposed to be carried out within the DEP Zone II or DEP Zone III of the Dry Brook Public Water Supply Well, the applicant is to document that they have consulted with the Board of Health, Fire District 2 Board of Water Commissioners, and the Conservation Commission.

§ 345-3 Application fees.

All applications to the Planning Board shall be accompanied by cash or check payable to the Town of South Hadley in the amount specified in Appendix D (South Hadley Planning Board Fee Schedule). The costs of advertising the public hearing are to be paid by the applicant as set forth in the Public Hearing Notices portion of the Fee Schedule in Appendix D. Said Appendix D is attached and incorporated herein.

§ 345-4 Application review fees.

- A. In addition to those fees established in § 345-3 above the Planning Board may impose a fee, pursuant to Massachusetts General Laws, Chapter 44, § 53G, Chapter 41, § 81Q, and Chapter 40A, § 9, for project review on those applications which require, in the judgment of the Planning Board, review by outside professional consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, bylaws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.
- (1) If the Planning Board has previously determined that an application review fee is to be required for a proposed application, the application review fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to MGL c. 44, § 53G. Any such application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.
 - (2) If during the course of the Planning Board review of an application, the Board determines that an outside review to be paid for by an application review fee is necessary, the applicant shall submit the application review fee within 14 calendar days of the Board's determination.
- B. The Planning Board, in collecting and expending said application review fees, selecting the consultant, and all other matters related to its utilization of the application review fees, shall be governed by §§ 345-5 through 345-11 below. The applicant's right to appeal said application review fees is set out in § 345-13 below.

§ 345-5 Consultants.

- A. Professional expertise/consultants. In hiring outside professional expertise and/or consultants, the Board may engage engineers, planners, lawyers, urban designers, regional planning agencies or other appropriate professionals who are qualified and capable of assisting the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations.
- B. Minimum qualifications. All consultants selected by the Board must meet minimum qualifications consisting of:
- (1) An educational degree in or related to, the field at issue, from a recognized public or private college or university; or
 - (2) Three or more years of practice in the field at issue or a related field.

§ 345-6 Filing with Town Clerk.

The selection made by the Board shall be recorded with the office of the Town Clerk within five business days of the Board's final selection(s).

§ 345-7 Deposit of funds; establishment of special account; use of funds.

Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer, who shall establish a special account for this purpose.

- A. Expenditures from fund. Expenditures from this special account may be made at the direction of the

Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been, or will be, collected from the applicant.

- B. Review fees may only be spent for services rendered in connection with the specific project for which they were collected. These services shall include, but are not necessarily limited to: project reviews, document reviews, and project-related inspections. Accrued interest may also be spent for this purpose.
- C. If the outside consultant review begins and expenses are generated prior to the filing of a formal administrative appeal, all such expenses, up to the time of appeal, shall be paid out of the special account for that particular project.

§ 345-8 Amount of application review fees.

- A. Minimum fees. The fee schedule of the Planning Board under application review shall be adhered to in determining the review fee required for the establishment of the special account.
- B. Additional review fee. If review funds charges are insufficient to cover the costs of outside professional expertise and/or consultant review, the Board may require the applicant to pay an additional review fee to cover these costs, provided these costs are reasonable and directly related to the project undergoing review.

§ 345-9 Failure to pay.

Failure of an applicant to pay a review fee shall be deemed failure to file a complete application and therefore the application shall be deemed incomplete and either denied by the Board on those grounds, or shall not be accepted.

§ 345-10 Excess funds returned.

At the completion of the Board's review of a proposed project or at a time determined by any statute, bylaw, or regulation to run from the submission of the application/permit, including any constructive approval as certified by the Town Clerk, or upon the withdrawal of said submission in writing, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest.

§ 345-11 Report of account.

A final report of the status of said account shall be made available to the applicant or the applicant's successor in interest.

§ 345-12 Successor in interest.

For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation that legally establishes this succession in interest, which may be subject to review by Town Counsel.

§ 345-13 Appeals.

- A. Method of appeal. Any applicant may take an administrative appeal from the selection of the outside professional expert and/or consultant to the Selectboard.
- B. Grounds for appeal. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications.
- C. Seven days to file appeal. Any applicant aggrieved by a selection of an outside consultant may appeal to the Selectboard provided that such appeal is entered within seven calendar days after such selection has been made as recorded in the office of the Clerk. An appeal will not be considered valid unless it is formally filed with the office of the Town Clerk with a copy given to the Selectboard.
- D. Waiver of appeal. The applicant should notify the Planning Board of its acceptance of the consultant

and waiver of appeal at the earliest possible time in the review and consultant selection process. The Planning Board and staff reserve the right to take no action on an application until the appeal period has run, unless a waiver of appeal is filed.

- E. Action on an appeal. In acting on an administrative appeal, the Selectboard may determine that:
- (1) A conflict of interest does exist, and/or the consultant does not meet the minimum qualifications, therefore, the Planning Board must select another consultant; or
 - (2) A conflict of interest does not exist, and/or the consultant does meet the minimum qualifications, therefore, the selection made by the Planning Board stands.
- F. No decision on appeal. In the event that no decision is made within one month (30 days) following the filing of the appeal, the selection made by the Board shall stand.

§ 345-14 Review period extended.

The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal, beginning from the date of filing such appeal.

§ 345-15 Supplementary nature of regulations.

These general regulations are supplementary to other provisions of the South Hadley Zoning Bylaw, South Hadley Subdivision Regulations, the Special Permit Rules and Regulations, and the Site Plan Review Rules and Regulations.

§ 345-16 Procedural history.

- A. On June 3, 2019, the Town of South Hadley Planning Board held a public hearing, pursuant to MGL. c. 41, § 81Q, and MGL. c. 40A, § 9, to consider proposed regulations governing fees. At the close of the public hearing, the Planning Board voted to adopt regulations governing applications, application review fees and a new schedule of fees for review conducted by the Planning Board and its consultants on the various types of applications which come before it.
- B. Said general rules and regulations concerning application requirements, application fees, application review fees, and fee schedule adopted June 3, 2019, were filed with the Town Clerk on June 14, 2019.
- C. On August 19, 2019, the Town of South Hadley Planning Board held a public hearing, pursuant to MGL. c. 41, § 81Q, and MGL. c. 40A, § 9, to consider proposed amendments to said general rules and regulations as were adopted June 3, 2019, and filed with the Town Clerk on June 14, 2019. At the close of the public hearing, the Planning Board voted to adopt amendments to said general rules and regulations governing applications, application review fees and a new schedule of fees for review conducted by the Planning Board and its consultants on the various types of applications which come before it. Said amendments, as adopted August 19, 2019, were filed with the Town Clerk on August 22, 2019.