



Town of Brookfield

RULES AND REGULATIONS

for the Planning Board

July 2006

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Article I. Introduction

These rules and regulations govern the operation of the Planning Board and prescribe the procedures for submitting plans and petitions to the Board. They are intended to serve the general public and to educate new Board members by describing the Board's powers, duties, and mode of operation.

The Planning Board is authorized under Municipal Planning and Subdivision Legislation, Massachusetts General Law Chapter 41 Section 81A (MGL c. 41 §81A). Its powers and duties are described in MGL c. 41 §81B – J. Additional responsibilities are described in The Zoning Act, MGL c. 40A, and in the Brookfield Zoning By-law.

This document specifies the Board's organization and describes procedures for the most frequent functions performed by the Board:

- Endorsing "Approval Not Required" (ANR) plans;
- Approving Subdivisions;
- Granting Special Permits;
- Approving Site Plans;
- Amending the Zoning By-law.

The use herein of the masculine gender shall be construed as a reference to a person of either sex.

Article II. Organization

Section 1. Members and Officers

The Planning Board shall consist of five elected members. The members of the Board shall annually elect from themselves all officers of the Planning Board to include a Chairman, Vice-Chairman, Secretary, and Treasurer.

Section 2. The Chairman

The Chairman shall vote and be recorded on all matters coming before the Board. Subject to these rules, he shall decide all points of order, unless overruled by a majority of the Board in session at the time. He shall appoint such committees as may be found necessary or desirable.

In addition to the powers granted by the General Laws of the Commonwealth of Massachusetts and the Zoning By-law of the Town of Brookfield, and subject to these rules and further instructions of the Board, the Chairman shall transact the official business of the Board, supervise the work of the Secretary and Treasurer, request necessary help, direct the general work of the Board, and exercise general supervisory power. He shall at each meeting report the official transactions that have not otherwise come to the attention of the Board.

Section 3. The Vice-Chairman

The Vice-Chairman shall act as Chairman if the Chairman is absent, disabled or otherwise unable to perform his duties. If both the Chairman and the Vice-Chairman are absent, the Secretary shall act as the Chairman and appoint an Acting Secretary.

Section 4. The Secretary

The Secretary (known as the *Clerk* in MGL c. 41 §81A) shall, subject to review by the Board and its Chairman, supervise all of the clerical work of the Board including: all correspondence of the Board, sending of all notices required by law, filing of decisions, preparation of rules and orders of the Board, receipt and review of all applications for compliance with the rules of the Board, keeping of dockets and minutes of the Board's proceedings, compilation of all required records, maintenance of necessary files and indexes, and recording the roll at all Board meetings. If the Secretary is absent, the Chairman shall appoint an Acting Secretary.

Section 5. The Treasurer

The Treasurer shall, subject to review by the Board and its Chairman, receive and transmit to the Town Treasurer all funds collected by the Board, and review bills to be paid by the Board with recommendations as to their validity and completeness, and transmit to the Town Accountant and Town Treasurer appropriate form and evidence necessary for the proper payment thereof.

Section 6. Quorum

Three members shall constitute a quorum for normal business. The quorum requirement for special permits is described in section V.6.

Section 7. Meetings

All meetings – both regular and special – shall be open to the public in accordance with MGL c.39 §23A-24. Except in an emergency, a notice of each Board meeting shall be filed with the Town Clerk, and a notice or a copy thereof shall be publicly posted in the office of said Clerk or on the principal or official bulletin board in the Town Hall at least 48 hours, including Saturdays but not Sundays and legal holidays, prior to such meetings.

All decisions and votes taken by the Board shall take place at meetings.

Meetings, while open to the public, are not public hearings. The Board will seek information or testimony as it deems necessary. Unsolicited comments from the public may be ruled out of order by the Chairman.

A draft of a meeting's minutes shall be transmitted to Board members for their review within two weeks of the meeting.

Regular Meetings

Regular meetings of the Planning Board are normally held at 7 p.m. on the first Wednesday of each month at the Town Hall. If a regular meeting day falls on a holiday or any day of national, state, or municipal election or caucus or primary or is in conflict with a session of a Town Meeting, the regular meeting will be cancelled and instead a special meeting will be held at some proximate time.

The agenda for regular meetings shall be drawn up by the Chairman and shall be completed by 3:00 P.M. of the preceding Friday. The Board may entertain items not placed on the agenda by the deadline under the category "other business".

Special Meetings

Special meetings may be called by the Chairman, or at the request of two members. Notice – either written or verbal – thereof shall be given to each member at least 48 hours before the time set, or notice thereof at any meeting attended by all members shall suffice.

Article III. “Approval Not Required” Plans

There are plans that do not require approval under the Subdivision Control Law because they do not show a “subdivision”, as defined in MGL c.41 §81L. Any person wishing to record such an “Approval Not Required” (ANR) plan can submit it to the Planning Board and, if the Board agrees that approval is not required, it must “forthwith, without a public hearing” endorse it, thus allowing it to be recorded at the Registry of Deeds.

For plans requiring approval under the Subdivision Control Law, see Article IV.

Section 1. Governing Laws

The law governing “Approval Not Required” (ANR) plans is MGL c.41 §81P.

Also see section 2300 of the Town of Brookfield Subdivision Rules and Regulations.

Section 2. Submission

Consult with Planning Board

Prior to preparing ANR plans, the Board is available for consultation to help ensure that the plans will contain such information as the Board requires to make its decision.

Prepare Plans

Plans must be prepared in accordance with section 2300 of the Subdivision Rules and Regulations.

File with Town Clerk and Planning Board

For the Town to act on the applicant's ANR plan in a timely manner, the applicant must file the following information with the Town Clerk and Planning Board.

The applicant must first file the following materials with the Town Clerk:

- Four copies of Form A furnished by the Town Clerk or Building Inspector, a copy of which is in Appendix B.
- One copy of all plans and any supporting documents.

The Town Clerk shall certify the date and time of filing on the copies of Form A, and return three copies to the applicant.

The applicant shall forthwith submit the following materials to the Planning Board:

- The three copies of Form A certified by the Town Clerk.
- A fee as indicated in Appendix A.
- One mylar original and three paper copies of all plans.
- One copy of any supporting documents.

Section 3. Period for Action

From the day an applicant files an ANR plan with the Town Clerk and Board, the Board has 21 days to act. Failure to act means the plan is endorsed by default, a so-called “constructive” endorsement.

The Board may reject an ANR plan if it decides the application is incomplete.

Section 4. Processing and Voting Requirements

The Board will review the plan to determine whether an ANR endorsement is warranted.

A quorum of 3 members of the Board must be present. A majority of the quorum is necessary to endorse an ANR plan (e.g. 2 out of 3).

At the Board's discretion the application fee may be waived.

Section 5. Hearing

No hearing is required for ANR plans.

Section 6. Filing

If the Board determines the plan does not require approval under the Subdivision Control Law, at least 2 members shall sign and date the mylar original and three paper copies. The applicant retains the mylar and records it at the Registry of Deeds.

The Board files one copy of the plan and distributes copies to the Board of Assessors and the Building Inspector. The Board does not issue a notification of approval; the signed plan suffices.

If the Board determines the plan *does* require its approval under the Subdivision Control Law, the Secretary shall notify the Town Clerk in writing, citing the reason, and transmit a copy of this decision to the applicant, and place a copy in the Board's files. Article IV discusses the procedure for approving plans under the Subdivision Control Law.

Section 7. Appeals

If the Board determines that an ANR endorsement is not warranted, the applicant may amend the ANR plan and submit a new application to obtain the Planning Board's endorsement or may appeal the Board's decision to Superior Court.

Article IV. Subdivision Plans

The Subdivision Control Law empowers the Planning Board to regulate the laying out and construction of ways in subdivisions, providing access to the lots therein, and ensuring sanitary conditions, and parks and open areas.

Section 1. Governing Laws

Subdivisions in Brookfield are governed by MGL c.41 §81K-GG and the Town of Brookfield Subdivision Rules and Regulations.

Section 2. Submission and Processing

See the Subdivision Rules and Regulations for details.

Section 3. Period for Action

From the day an applicant files an application with the Town Clerk, the Board has:

- 45 days to act on a preliminary subdivision plan,
- 90 days to act on a definitive subdivision plan if a preliminary plan was approved,
- 135 days to act on a definitive subdivision plan if no preliminary plan was approved.

Section 4. Hearing

Before the Board can approve, modify, or rescind a definitive subdivision plan, it must hold a public hearing as described in Article IX.

Article V. Special Permits

The Town of Brookfield Zoning By-law provides for uses which may be permitted in specified districts only upon the issuance of a special permit. It designates either the Planning Board or the Zoning Board of Appeal as the Special Permit Granting Authority as shown in the table below.

Zoning By-law Section	Use Requiring a Special Permit	Special Permit Granting Authority
4.B.1.c	More than one Principal Use	ZBA
4.C.1.d	Development within the Flood Plain District	PB
4.D	As required by Use Regulation Table	PB
5.B.2	Supplemental apartment in RR & Village districts	ZBA
5.B.4	Keeping of livestock or poultry in Village, BA, BB districts	ZBA
5.B.5.b	Temporary mobile home or trailer for longer than 60 days	ZBA
5.F	Uses accessory to scientific research & development	ZBA
6.C	Extend or change pre-existing nonconforming structures	ZBA
7.B.4	Creation of more than one rear lot	PB
7.B.5	Creation of rear lot with less than two times the minimum area	ZBA
8.B.2	Campgrounds	ZBA
8.E	Cluster Development	PB
10.B.3	Signs: distance from way, height	ZBA
10.D	Change to existing signs for nonconforming uses; directional signs	ZBA
11.C.1	Wireless Communications Facility	PB

Section 1. Governing Laws

Special Permits in Brookfield are governed by MGL c. 40A §9 and the Zoning By-law §12.C.

Pursuant to the Brookfield Town By-law c.V §6, applications for a special permit must be certified by the Tax Collector indicating that local taxes are not owed by the applicant or (if different) by the property owner.

Section 2. Submission

Consult with Planning Board

Prior to preparing a special permit application, the Board recommends that it be consulted to help ensure that the application will contain such information as the Board requires to make its decision.

Prepare Plans

Plans must be prepared in accordance with the requirements of section VIII.2.

File with Town Clerk and Planning Board

For the Town to act on a special permit application in a timely manner, the applicant must file the following information with the Town Clerk and Planning Board.

The applicant must first file the following materials with the Town Clerk:

- Two copies of the Special Permit Application Form furnished by the Town Clerk or Building Inspector, a copy of which is in Appendix B.
- One copy of all plans and supporting documentation.

The Town Clerk shall certify the date and time of filing on the application forms, and return one copy of the form to the applicant.

The applicant shall forthwith submit the following materials to the Planning Board:

- The Special Permit Application Form certified by the Town Clerk.
- A fee as indicated in Appendix A
- Seven copies of all plans and supporting documentation. In certain cases the number of copies may be reduced after consulting with the Board.
- The names and addresses of the parties in interest on a form furnished by the Board of Assessors. Parties in interest include:
 - a) the petitioner,
 - b) abutters,
 - c) owners of land directly opposite on any public or private street or way,
 - d) abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list,
 - e) the Planning Board,
 - f) the planning boards of the six neighboring towns, North Brookfield, East Brookfield, West Brookfield, Warren, Brimfield, and Sturbridge.

The Board of Assessors shall certify the names and addresses of the property owners taken from the tax list.

- One set of envelopes addressed to the parties in interest showing, as a return address, the Brookfield Planning Board, 6 Central St, Brookfield, MA 01506. See Appendix A for postage fee information.

Section 3. Period for Action

As described in MGL c. 40A §9 and reiterated in the Zoning By-law §12.C.6, the Board shall hold a public hearing within 65 days of the application being filed with the Town Clerk,

and shall render a decision within 90 days following the close of the public hearing. Extensions of the period for action are possible, as described in the law.

Section 4. Processing

After receiving an application for a special permit, at its next meeting the Board shall determine if the application is complete. If the Board deems that all required information is not submitted, it shall forthwith return the application and fee to the applicant with a statement as to its deficiency, and notify the Town Clerk that the application was invalid.

For applications accepted by the Board, the Board shall inform the applicant whether it intends to have the plans reviewed by its consultants. The Board shall obtain an estimate from its consultant for the cost of the review and the applicant shall bear the cost of this service. Failure to pay any review costs shall be grounds for denial of the special permit.

The Board shall forward one copy of the plan and supporting documentation to any party it deems necessary such as the Building Inspector, the Highway Superintendent, the Board of Health, the Conservation Commission, the Fire Chief, the Police Chief, and the Board's consultant.

The Board may wish to view the site and will contact the applicant to schedule a mutually convenient time for the visit.

Section 5. Hearing

Before the Board can decide on a special permit application, it must hold a public hearing as described in Article IX.

The Secretary shall advertise a notification of the hearing as specified in MGL c.40A §11. The cost of advertising is included in the applicant's fee.

In addition, the Secretary shall mail a copy of the advertised notice to the parties in interest in the pre-addressed envelopes provided by the applicant so that the postmark date is at least fourteen (14) days prior to the date of the hearing.

Section 6. Voting Requirements

Four members of the Board shall constitute a quorum. An affirmative vote of four members of the Board shall be necessary to grant a special permit. Only members who have attended the public hearing, including any continuations thereof, may vote.

The minutes shall show the vote of each member upon each question or, if absent or failing to vote, indicating such fact.

Section 7. Contents of Decision and of Notice of Decision

The Board must put the reasons for a special permit decision in writing and file it with the Town Clerk, and it must send a notice of the decision to certain parties, as described in the next section. This section discusses what information the decision and the notice must contain.

The decision must contain:

- the Board's findings of fact in the case including, at a minimum, the name and address of the owner and applicant, identification of the property, and description of the proposed use;
- citations of specific sections of the zoning by-law that apply either in support of or in opposition to the proposed use;
- explanations of how the application complies or does not comply with each relevant requirement of the by-law;
- references to any supporting documentation;
- the details of any conditions placed on the permit, giving reasons for each condition;
- the vote of each member upon each question or, if absent or failing to vote, indication of such fact.

Appendix B provides a special permit decision template.

The notice of decision, which is mailed to certain parties as described in the next section, must specify:

- whether the Board approved or denied the application;
- where the full decision can be viewed; i.e. at the Town Clerk's office;
- that any appeal must be made pursuant to MGL c. 40A §17 and filed within 20 days after the date the decision was filed with the Town Clerk.

Appendix B provides a notice of decision template and a form letter to be sent to the applicant if the permit was granted.

Section 8. Filing

Within 14 days of its vote, and prior to the end of the 90-day period, the Board will file a copy of its decision, certified by the Secretary of the Board, with the Town Clerk.

The Board will forthwith mail a notice of its decision to the owner, to the applicant if other than the owner, to the parties in interest, and to those persons present at the public hearing who asked that a notice of the decision be sent to them.

Section 9. Appeals

Pursuant to MGL c. 40A §17, appeals of the Board's decision must be filed within 20 days after the date of filing of the decision with the Town Clerk.

Section 10. Effective Conditions

The special permit will take effect upon:

- a) certification by the Town Clerk that 20 days have elapsed since the filing of the decision and that no appeal has been filed (or if an appeal has been filed that it has been dismissed or denied);

and

- b) the certified decision has been recorded in the Registry of Deeds, indexed in the grantor index under the name of the owner of record, or recorded and noted on the owner's certificate of title. The applicant must record the decision at his own expense.

Section 11. Withdrawal

An application may be withdrawn by notice in writing to the Secretary at any time prior to the publication of the notice of the public hearing by the Board. Requests to withdraw at other times may be granted by a vote of the Board upon formal, written request, and after any outstanding fees are paid.

Article VI. Site Plan Approval

In certain instances a landowner who proposes to develop property may have to obtain the approval of the Planning Board before receiving a building permit from the Building Inspector.

The purpose of a site plan approval is to review the layout and design aspects of a proposed development to minimize any adverse impacts on the neighborhood and the Town as a whole.

Section 1. Governing Laws

According to the Zoning By-law §8.C, site plan approval is required for a nonresidential or nonagricultural use permitted by right if it involves:

1. More than 500 square feet of floor area; or
2. More than 2000 square feet of site alteration.

If the Zoning By-law requires a special permit for a proposed use, a separate site plan approval is not required.

Pursuant to the Brookfield Town By-law c.V §6, applications for a site plan approval must be certified by the Tax Collector indicating that local taxes are not owed by the applicant or (if different) by the property owner.

Section 2. Submission

If site plan approval is required, the Building Inspector will refer the applicant to the Planning Board.

Consult with Planning Board

Prior to preparing plans, it is recommended that the Board be consulted to help ensure that plans will contain such information as the Board requires to make its decision.

Prepare Plans

Plans must be prepared in accordance with the requirements of section VIII.2.

File Plans with Building Inspector

For the Town to act on the application in a timely manner, the applicant must file the following information with the Building Inspector.

- Three copies of the Site Plan Approval Form furnished by the Town Clerk or Building Inspector, a copy of which is in Appendix B.
- Three copy of all plans and supporting documentation.
- A fee as indicated in Appendix A.

The Building Inspector shall certify the date and time of filing on the application forms, and return one copy to the applicant.

The Building Inspector shall transmit the fee to the Town Treasurer and shall certify on the application forms that the fee has been paid.

He shall keep one copy of the form and one copy of all plans and supporting documentation and shall within 7 days forward to the Planning Board one copy of the form and two copies of all plans and supporting documentation.

Section 3. Period for Action

The Board must make a decision within 45 days of an application being received from the Building Inspector.

Section 4. Processing

Upon receiving an application from the Building Inspector, the Chairman shall place the application on the agenda of its next regular meeting and shall advise the applicant to attend to answer questions and respond to the concerns of the Board.

At that meeting the Board shall first determine if the application is complete. If the Board deems that all required information is not submitted, it shall forthwith return the application with a statement as to its deficiency, and notify the Building Inspector that the application was invalid.

For applications accepted by the Board, the Board shall inform the applicant whether it intends to have the plans reviewed by its consultants. The Board shall obtain an estimate from its consultant for the cost of the review and the applicant shall bear the cost of this service. Failure to pay this fee shall be grounds for denial of the site plan for the development.

The Board may wish to view the site and will contact the applicant to schedule a mutually convenient time for the visit.

Section 5. Hearing

No public hearing is required for approving a Site Plan.

Section 6. Voting Requirements

An affirmative vote of three members of the Board is required to approve a Site Plan.

The record shall show the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The Board shall, in addition, set forth clearly the reasons for its decision.

Section 7. Filing

The Planning Board will file a copy of its decision, certified by the Secretary of the Board, with the Building Inspector before the expiration of the 45-day period.

If the application is approved by the Planning Board, the applicant may apply to the Building Inspector for a building permit.

Section 8. Appeals

If the application is denied, the applicant may amend the site plan and submit a new application to obtain the approval of the Planning Board or may appeal the Board's decision to Superior Court.

Article VII. Zoning By-law Amendment

The Zoning By-law and Map contain the regulations for determining what type of development is permitted throughout the Town. The Planning Board plays a pivotal role in amending them. This article outlines the steps that must be followed to make successful amendments. To avoid having an amendment disapproved due to a procedural mistake, strict adherence is required to the process established by state law for enacting zoning changes.

Section 1. General Information

According to MGL c. 40A §5, a zoning amendment may be proposed at any time and be placed on the warrant of a special or annual Town Meeting. Proposals which will have a significant impact on the Town should be presented well in advance of Town Meeting to allow for careful consideration by local officials and the general public.

Section 2. Origination

Amendments may be submitted by:

- The Board of Selectmen
- The Zoning Board of Appeals
- An individual owning land affected by the proposal
- Ten or more registered voters for consideration at an annual Town Meeting
- 100 or more registered voters, or ten percent of the total number of registered voters, which ever is less, for consideration at a special Town Meeting.
- The Planning Board
- The Central Massachusetts Regional Planning Commission

Section 3. Steps Required to Ensure Legal Acceptance

Each of the following steps must be followed precisely. The Planning Board should document each step as it happens because such documentation is required when the revised by-law is submitted to the attorney general for approval. The requisite documentation is described parenthetically below.

1. An amendment is initiated by submitting the proposed by-law or map change to the Board of Selectmen. [Document who initiated the amendment proposal and when it was submitted to the Board of Selectmen.]
2. The Board of Selectmen has 14 days to submit the proposal to the Planning Board for its review. [Retain a copy of the selectmen's transmittal memo to the Planning Board.]
3. The Planning Board must hold a public hearing within 65 days of its receiving the proposal. Notification of the hearing must be advertised, posted, and mailed to certain parties as described below. The hearing notice must contain the following information:
 - The time, date, and place of the public hearing.

- The subject matter of the hearing “sufficient for identification.” This must contain enough detail that the reader can make an informed decision on whether to attend the hearing or town meeting.
- The place where the texts and maps may be inspected.

[Retain a copy of the hearing notice.]

4. The Board must advertise the hearing notice in a local paper in each of two *successive* weeks, the first publication to be not less than 14 days before the day of the hearing. Do **not** include the date of publication when counting the 14 days! [Document the name of the paper and the dates of publication.]
5. The Board must post the hearing notice in the Town Hall for a period of not less than 14 days before the day of the hearing. [Document when the notice was posted.]
6. The Board must mail the hearing notice to the Commonwealth’s Department of Housing and Community Development (which use to be called the Department of Community Affairs.) [Mail with return receipt.]
7. The Board must mail the hearing notice to the Central Massachusetts Regional Planning Commission. [Mail with return receipt.]
8. The Board must mail the hearing notice to the planning boards of neighboring towns:
 - Brimfield
 - East Brookfield
 - North Brookfield
 - Sturbridge
 - Warren
 - West Brookfield

[Mail with return receipt.]
9. No more than six months can elapse between the hearing and the town meeting vote on the zoning change.
10. The town meeting warrant must be properly posted: 7 days before an annual town meeting, 14 days before a special town meeting.
11. The Planning Board must submit a report with recommendations to Town Meeting. If the Board fails to submit a report, Town Meeting may not act on the amendment until 21 days have passed from the date of the hearing. The report of the Board is advisory only, but usually carries considerable weight at Town Meeting since it is the Board charged by law with thoroughly evaluating all aspects of the proposal and considering its overall impact on the Town.

In its review, the Planning Board may wish to revise the original proposal to take into account testimony received at the hearing or for a variety of other reasons. In its report to Town Meeting, the Planning Board may recommend amendments to the original proposal without another public hearing if the fundamental character and identity of the proposal are not changed but are designed merely to perfect the proposal.

[Document whether the Board’s report to the town was oral or written. If written, retain a copy.]

12. A two-thirds vote at Town Meeting is required for adoption of a zoning amendment. Town Meeting may amend the original proposal without a new notice, public hearing, and Planning Board report unless the amendment: 1) changes the identity or substantial character of the original proposal; 2) fundamentally departs from the original proposal; or 3) radically differs from the original proposal.

[Record the *actual* vote count unless the vote is unanimous. If original proposal is amended, record the actual motion.]
13. If the proposed amendment is voted down by Town Meeting, it may not be brought back for a period of two years, unless adoption is recommended in the final report of the Planning Board.
14. Within 30 days of adjournment of the Town Meeting in which an amendment was adopted, the Town Clerk must submit to the Attorney General a certified copy of the amendment, a statement explaining the by-law or map change (which may be prepared by the Planning Board), and proof that all of the procedural requirements have been followed. The Attorney General has 90 days after submission by the Town Clerk to act on the amendment; if 90 days lapse without action by the Attorney General, the by-law is deemed approved.
15. After the proposal has received the approval of the Attorney General, it must be published in a town bulletin or pamphlet and be posted in at least 5 public places in the Town, or the amendment can be published twice at least one week apart in a newspaper of general circulation in the Town. (MGL c.40 §32)
16. After approval by the Attorney General, a copy of the latest effective zoning by-law must be sent by the Town Clerk to the Department of Housing and Community Development.
17. For 90 days following the posting or the second publication in a newspaper, legal action may be commenced on the grounds that there were procedural defects in the adoption process. A copy of the petition submitted to the court must be filed with the Town Clerk within seven days after the court action is commenced. After 90 days, no zoning amendment may be invalidated due to procedural defects.

Section 4. Effective Date

A Zoning Amendment legally takes effect immediately upon adoption by Town Meeting. The Attorney General, after receiving notification of the amendment, has 90 days to approve or disapprove the amendment. The Attorney General may invalidate the amendment in full or in part if it is inconsistent with the constitution or laws of the Commonwealth or if procedures required by law were not followed.

Article VIII. Plans for Special Permits and Site Plan Approvals

This section discusses the requirements for plans that are submitted as part of a special permit or site plan approval application.

Plans are also required for ANR and subdivision applications but the requirements for those plans are specified in the Subdivision Rules and Regulations.

Section 1. Planning Board Consultation

Prior to submitting an application for a special permit or site plan approval, it is recommended that the applicant meet with the Board to discuss the proposed development and any unusual features on the site that require special treatment.

Section 2. Plan Requirements

For new developments, the Planning Board requires that plans be prepared by and bear the stamp of a registered Professional Engineer or registered Land Surveyor. However for minor developments expected to have insignificant impacts, the Board may waive this requirement.

Plans should be prepared according to the following requirements.

- A. Size of plan: No larger than 24" x 36" drawn to scale.
Preferred scale: 1" = 40'

Note: for major projects, plan must be of a size and scale to be determined in consultation with the Planning Board.
- B. Features to be indicated
 - a) site orientation (locus)
 - b) north point
 - c) zoning districts
 - d) any wetlands, streams, ponds, or wetland stream buffers
 - e) roads with street names, driveways, other access ways
 - f) parking and loading areas
 - g) utilities (water, storm sewer, electric, cable TV)
 - h) names of owners of properties within 300 feet as shown on the most recent tax list
 - i) location of buildings on surrounding properties
 - j) signs and lighting
 - k) landscaping
- C. Legend, graphic aids
 - 1) Existing features are to be shown in black
 - 2) Proposed features are to be shown in color
 - 3) Setback, side and rear yard dimensions shall be indicated by dashed line
 - 4) Graphic scale
 - 5) Date of plan
 - 6) Title of plan

7) Names of applicant, owner of record (if different), and designer or surveyor's stamp.

D. Special Requirements for Cluster, Multi-family Dwellings, Commercial Developments

In addition to the above mentioned features, plans for these projects must show detailed utilities and topographic information.

The Board will judge the qualities of the specific location, and the proposed use and building type so as to meet the objectives described in the Zoning By-law §12.C.8.a. for Special Permits, and §12.C.2. for Site Plan Approvals. Accordingly, the plan must include sufficient detail to allow the Board to make its judgement.

The Board shall have the authority to alter or waive any of these requirements as it deems necessary or appropriate in particular cases.

Article IX. Hearings

Public hearings are required to obtain approval for special permits and subdivisions, and amendments of the Zoning By-law. All hearings follow the procedures listed below.

Section 1. Notice

Before any public hearing, parties in interest must be notified. The details of this notification vary depending on the hearing's purpose.

- For special permits, see section V.5
- For subdivisions, see section 3440 of the Subdivision Rules and Regulations
- For Zoning By-law amendments, see section VII.3.

Section 2. Hearing to be Public

All hearings shall be open to the public. No person shall be excluded unless he is considered by the Chairman to be a serious hindrance to the workings of the Board.

Section 3. Representation and Absence

An applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of any appearance on behalf of an applicant, the Board shall decide on the matter using the information it has otherwise received.

Section 4. Order of Business

The hearing shall start at the time specified in the printed notice.

- A. Explanation of procedures by the Chairman including a reference to the printed notice.
- B. Applicant's presentation.
- C. Questions from the Board.
- D. Comments from the public, if any, and questions by those seeking information.
- E. Applicant's response, if any.
- F. Steps B - E will be repeated for each application presented to the Board.

Members of the Board who are hearing the case may ask questions at any point during the hearing.

Section 5. Clarifications and Additional Material

The Board shall not consider any additional material once the public hearing is closed. This avoids giving the appearance that the Board is acting on information that was not available to the public at the public hearing, and therefore which is not subject to rebuttal by the public.

Exceptions may be made for clarifications or revisions requested by the Board, or draft decisions submitted by the applicant to be used by the Board in making its own determination.

If new information is to be made available, the public hearing must be continued to another time with proper notice given to allow interested parties the opportunity to review and comment on such matters.

Article X. Policies and Advice

Whereas all decisions of the Board take place only at its meetings, any advice, opinion, or information given by any Board member, or any other official or employee of the Town of Brookfield shall not be binding on the Board.

Article XI. Adoption

The foregoing rules and regulations and appendices are hereby adopted this 7th day of February 2001, by the Planning Board; all former rules of this Board are hereby repealed.

/s/ Mary T. O'Connell

/s/ Daniel Leahy

/s/ Kermit Eaton

/s/ Sharon Mahoney

/s/ Bruce Clarke

Appendix A. Fee Schedule

The following fees shall accompany the submittal of application materials of the various plans and permits specified in these Rules and Regulations. For all applications, the Board shall inform the applicant whether it intends to engage consultants to assist in the review and processing of the application. Such consultants may include engineers, architects, surveyors, attorneys, or others whose professional expertise is deemed by the Board to be needed for a thorough processing of the application. The Board shall obtain an estimate from its consultants for the work to be performed on behalf of the Board relative to the application. A copy of the estimate shall be provided to the applicant, and the applicant shall bear the cost for the consultant's services. The applicant must submit the estimated review cost amount to the Town of Brookfield prior to the start of the review. Any applicant may appeal the selection of the outside consultant to the Board of Selectmen, but any such appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. Any funds remaining at the completion of the project for which review fees have been collected will be returned the applicant pursuant to M.G.L. Ch. 44 Section 53(G). Failure to pay any review costs shall be grounds for denial of the application. All fees shall be paid by check to the Town of Brookfield.

Type of Application	Fee
Special Permit	\$250 plus a postage fee (equal to the cost of a return receipt letter to each party in interest; check for postage made out to Postmaster, Brookfield)
Form A (ANR plan)	\$50 each lot
Site Plan Review	\$75
Preliminary Subdivision plan	\$100 plus \$50 per lot
Definitive Subdivision plan	\$500 plus \$100 per lot
Road Inspection fee	\$2.00 per foot

Publications (Planning Board Rules and Regulations, Subdivision Rules and Regulations, Zoning By-Laws)	
Any single publication in hard copy	\$20.00
CD containing all books	\$30.00

Fee Schedule modified 6/2004, 2/2005, 7/2006.

Appendix B. Forms and Templates

Here are the forms and templates referenced by this document.

- Form A – Application for Endorsement of Plan Believed not to Require Approval
- Application for Special Permit Form
- Application for Site Plan Approval Form
- Special Permit Decision Template
- Notice of Special Permit Decision Template
- Letter of Decision to Special Permit Applicant Template

(revised 6/04)

FORM A

APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED
NOT TO REQUIRE APPROVAL

File # _____

(See Section 2300 of the Rules and Regulations governing the subdivision of land in the Town of Brookfield.)

Three (3) copies of this form, filled out and signed, should be included with the original mylar and three (3) prints of the plan in question.

TO THE PLANNING BOARD:

The undersigned, believing that the accompanying plan of his/her property in the Town of Brookfield does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

Name of Applicant(s): _____

Mailing Address _____

Phone Work: _____ Fax: _____ Home: _____

Name of Registered Land Surveyor: _____

Mailing Address _____

Phone Work: _____ Fax: _____

Deed of Property Recorded in Worcester County Registry of Deeds

Book No. _____ Page No. _____

Zoning District(s): _____ Tax Map No. _____ Parcel No. _____

Location and Description of Property by reference to Town streets, bodies of water, or other physical features:

Previous Board of Appeals/Planning Board decisions pertaining to land or buildings:

Reason plan does not constitute a subdivision: _____

Signature of Owner _____

Date _____

Please note: The original mylar & 3 copies of plan by registered land surveyor must be submitted. Also a fee must be submitted of \$50 per lot.

(revised 6/04)

Application # _____

Date Received by Planning Board _____

APPLICATION FOR SPECIAL PERMIT

TOWN OF BROOKFIELD

Name of Applicant: _____

Mailing Address: _____

Phone Work: _____ Fax: _____ Home: _____

Name of Land Owner (if different): _____

Mailing Address: _____

Phone Work: _____ Fax: _____ Home: _____

Description of Property

Street Address: _____

Zoning District(s): _____ Tax Map No. _____ Parcel No. _____

Lot Area: _____ from (pick one) Assessors ☐ Deed ☐ Survey ☐

Lot Dimensions (in feet)

Frontage _____ Average Width _____ Average Depth _____

Description of Existing Use of Property (e.g. vacant, single family, retail shops)

Description of Proposed Use of Property

Attachments:

Certified list of abutters (from Board of Assessors)

Site plan (if required by section 12.C.8.a)

Signature

Date

Tax Collector (certifying that no taxes are owed) _____

Applicant _____

Land Owner (if different) _____

Town Clerk's

Seal

Town Clerk _____

and time _____

Please Note: A fee of \$250 plus a postage fee (equal to the cost of a return receipt letter to each party interest) must be submitted with this application. A public hearing will be required.

(revised 11/00)

Application # _____

Date Received by Planning Board _____

APPLICATION FOR SITE PLAN APPROVAL

TOWN OF BROOKFIELD

Name of Applicant: _____

Mailing Address: _____

Phone Work: _____ Fax: _____ Home: _____

Name of Land Owner (if different): _____

Mailing Address: _____

Phone Work: _____ Fax: _____ Home: _____

Designer, Architect or Engineer (if any): _____

Mailing Address: _____

Phone Work: _____ Fax: _____

Description of Property

Street Address: _____

Zoning District(s): _____ Tax Map No. _____ Parcel No. _____

Lot Area: _____ from (pick one) Assessors ☐ Deed ☐ Survey ☐

Current Use of Property (e.g. vacant, single family, retail shops)

New Construction

Proposed Use _____

Building Area: Gross _____ Net _____

Removing existing trees? _____

Water supply Town ☐ Well ☐

Compliance with Title V (on site sewage disposal)? _____

Wetlands: Has the Conservation Commission issued either of the following?:

Determination of Non-applicability _____ Order of Conditions _____

Access:

Parking Spaces to be provided: Regular _____ Handicapped _____

Compliance with state handicapped access regulations? _____

Vehicular access? _____ Pedestrian? _____ Service? _____

Signature

Date

Tax Collector (certifying no taxes are owed) _____

Applicant: _____

Building Inspector (certifying fee has been received): _____

Please Note: a fee of \$55 and 3 copies of all plans & documents must be submitted with this application.

<filing date>

**SPECIAL PERMIT
NOTICE OF DECISION**

At the Planning Board meeting of <decision date>, the vote taken by the Planning Board will indicate that a Special Permit <with conditions> has been <granted/denied> to <applicant> to <proposed use>. The complete text of the decision is attached.

Appeals, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed within twenty days after the date of filing of this notice in the office of the Town Clerk.

**DECISION
SPECIAL PERMIT APPLICATION**

The Planning Board, after receiving on <board's acceptance date> a complete application stamped received by the Town Clerk on <received date> and conducting a duly advertised public hearing on <start of hearing date>, continued to <continuation hearing dates>, and concluded on <concluding hearing date>, hereby <denies/approves/approves with conditions> the application of <applicant> ("the applicant") for a Special Permit to <proposed use> in a <zoning district> District on property owned by <owner if different from applicant>.

Findings:

The Planning Board finds as follows:

The proposed use of <proposed use> would be situated on <description of the parcel including the Town Assessor's map reference>.

A Special Permit is required for this used under the Brookfield Zoning By-law, Use Regulation Table <section>, which requires a Special Permit for <proposed use> in the <zoning district> District.

3., 4., etc. <Other statements of fact regarding the proposed use>.

10. Regarding compliance with the Special Permit conditions listed in §12.C.10, the board finds as follows:

§12.C.10.a—Not detrimental to the public good or character of the town—
<specify how this use is or is not detrimental>.

§12.C.10.b—Use in character with the District—<specify how this use is or is not in character>.

§12.C.10.c—Traffic hazard and congestion—<specify how this use affects traffic>.

§12.C.10.d—Parking—<specify how this use affects parking>.

§12.C.10.e—Offensive, Dangerous or Harmful—<specify how this use is or is not offensive, dangerous or harmful>.

§12.C.10.f—Landscaped to provide buffer from abutters—<specify how this use would be landscaped from abutters>.

§12.C.10.g—Serviceable—<specify how this use would be serviced for electricity, telephone, water, sewerage, etc.>.

11. Regarding compliance with <other sections of the zoning by-law ... details similar to §12.C.10 above>.

12. <Summary of the public hearing, who spoke for or against the proposed use and the relevant points they made>.

Decision:

After a thorough review of all the information submitted by <pick one or more of the following:> the applicant, the comments made by interested parties, the reports of the board's consulting engineer and the comments of the CMRPC, it is the board's decision that the applicant is <entitled/not entitled> to a Special Permit, <with conditions>, to <use the property as proposed.>

In addition to the normal conditions, safeguards and limitations imposed by the Zoning By-laws, the following conditions are imposed:

1. ... N. <List of conditions>.

With regard to the objections raised against the <proposed use>, the board notes that <address any objections raised against the proposed use>.

This permit is <granted/denied> on <decision date> by the following vote of the Planning Board, all voting members of which were present at the hearing:

<In favor/Opposed> _____ <member1's name>

<In favor/Opposed> _____ <member2's name>

<In favor/Opposed> _____ <member3's name>

<In favor/Opposed> _____ <member4's name>

<In favor/Opposed> _____ <chairman's name>, Chairman

Certified by _____ <Secretary's name>,
Clerk of the Planning Board

Date _____

Received in the Office of the Town Clerk (date) _____

<decision date>

Dear <applicant>:

Attached you will find a copy of the Planning Board decision on your application. Barring any appeal, this decision becomes final after the twenty day appeal period has elapsed.

Please remember that at that time you must get a copy of the decision from the Town Clerk – one certifying that there was no appeal – register it with the Worcester District Registry of Deeds, and provide the Town Clerk and the Planning Board with a copy of the decision showing the book and page reference.

On behalf of the board, I wish you the best of luck in your endeavor.

Respectfully yours,

<chairman's name>, Chairman