

SPECIAL PERMITS RULES AND REGULATIONS

for

SIGNS



PLANNING BOARD

TOWN OF ACTON

**Acton Planning Department
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SECTION 1
GENERAL PROVISIONS

1.1 Authority

These RULES and Regulations are adopted by the Acton Planning Board as authorized by MGL. Chapter 40A and the Acton Zoning BYLAW.

1.2 Purpose

The purpose of these RULES and Regulations is to establish uniform procedures for conducting the business of the Planning Board under its jurisdiction as a Special Permit Granting Authority for SIGN Special Permits.

1.3 Applicability

Any person applying for a Special Permit for a SIGN under the BYLAW, whether or not governed by any other federal, state, or local regulations, laws, permits, variances, approvals, or programs, shall comply with the provisions of these RULES.

1.4 Definitions

Defined terms are capitalized in these RULES.

APPLICANT	Any person or such person's authorized representative who files an APPLICATION for a PERMIT under the BYLAW.
APPLICATION	All plans, forms, reports, studies or other documents which are submitted to the BOARD under these RULES by an APPLICANT.
BOARD	The Planning BOARD of the TOWN of Acton.
BYLAW	The Zoning BYLAW of the TOWN of Acton, as amended.
DECISION	Action by the BOARD on an APPLICATION.
PARTIES IN INTEREST	The APPLICANT, the owner(s) of the land on which the SIGN is proposed; direct abutters; owners of land directly opposite on any private or public STREET or way; and abutters to the abutters within three hundred feet of the property line of the APPLICANT as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the BOARD; and the Planning Board of every abutting city or town.
PERMIT	A Special PERMIT for a SIGN.
RULES	The RULES and Regulations for a Special Permit for a SIGN as presented herein.
SIGN	As defined in Section 7 of the TOWN BYLAW.
TOWN	The TOWN of Acton.

Other Definitions - Refer to the "Definitions" section of the BYLAW for additional defined terms.

1.5 Waiver of RULES

Strict compliance with these RULES may be waived if the BOARD finds that the waiver is in the public interest or is irrelevant to the project, and is consistent with the intent and purpose of the BYLAW and these RULES.

Any request from an APPLICANT for a waiver of these RULES must be submitted, in writing, to the BOARD at the time of submission of the APPLICATION. Such requests must clearly identify the provision(s) of the RULES from which relief is sought and be accompanied by a statement setting forth the reasons why, in the APPLICANT'S opinion, the granting of such a waiver would be in the public interest or the specific information required is irrelevant to the project, and why a waiver would be consistent with the intent and purpose of the BYLAW and these RULES.

1.6 Advice from TOWN Staff

Any advice, opinion, or information given to the APPLICANT by a BOARD member or by any agency, official, or employee of the TOWN shall be considered advisory only and not binding on the BOARD.

1.7 Amendments to the RULES

The RULES may be amended by a majority vote of the BOARD in a public meeting.

SECTION 2

PRELIMINARY REVIEW

2.1 Preliminary Consultations

Consultations between a prospective APPLICANT and the professional staff of the TOWN prior to the filing of an APPLICATION with the BOARD are strongly recommended and can prevent serious delays in the processing of the final APPLICATION.

Any action or communication initiated by the APPLICANT prior to the filing of an APPLICATION with the Town Clerk and the BOARD shall not constitute a PERMIT APPLICATION. The following RULES shall apply to such preliminary consultations.

2.2 Form of Request

All materials to be reviewed shall be provided in electronic PDF format to the Planning Department including a letter requesting a review with the name, address, and phone number of a person who may be contacted concerning the review. All correspondence and communication must be sent through the Planning Department or a copy of said communication must be provided to the Planning Department.

2.3 Scope of TOWN Staff Reviews

The TOWN staff will review preliminary materials in an attempt to avoid unnecessary technical deficiencies in the final APPLICATION and to promote efficiency in the formal review process. Staff will limit their review of such materials to technical issues appropriate to their area of expertise and to assessments of whether the project in question adequately addresses major issues of concern to the TOWN and the neighborhood. In general, staff will complete the preliminary review within 30 days. Staff will not be responsible for assuring the thoroughness, completeness, or correctness of any final APPLICATION. It is the responsibility of the APPLICANT to assure that any APPLICATION to the BOARD is complete and accurate.

Through the preliminary review process staff will make recommendations for any fee waivers or additional deposits that may be appropriate. Note that substantial changes in the project may require the alteration of these recommendations at the time of final submission. In all cases APPLICANTS shall contact the Planning Department prior to the final submission to discuss these fees.

If any other special permits are required from the BOARD for the project, then these should be discussed with the staff at this time.

2.4 Fees

The first such preliminary review by staff shall be free of charge. Subsequent preliminary reviews shall require payment of a fee by the prospective APPLICANT of \$100.00 at the time of submission. The fee shall be submitted in check form and made payable to "Town of Acton".

SECTION 3

CONTENTS OF APPLICATION

An APPLICATION for a PERMIT that lacks information or is incomplete in any manner may be denied or seriously delayed. It is the responsibility of the APPLICANT to assure the accuracy and completeness of all information submitted to the BOARD as part of an APPLICATION. The APPLICANT shall be responsible for factually supporting all points relied upon in the APPLICATION including references for methodologies used in design calculations.

Except as otherwise noted, a complete APPLICATION for a PERMIT shall be made in electronic PDF format together with 2 paper copies and shall include the information listed in this section 3 and all its subsections.

Changes made during the course of the APPLICATION review process, and requests for amendments of previously issued PERMITS and approved SIGNS shall be submitted in the same manner as above with changes and amendments clearly identified.

3.1 APPLICATION Form

Any APPLICATION for a PERMIT shall be made in writing and include the completed application form entitled "Application for a SIGN Special Permit" (form SIGN) attached to these RULES and also available from the office of the BOARD at Town Hall. In the case where the APPLICANT is a person other than the record owner of the property, the APPLICANT must obtain the owner's signature on this form indicating that the owner has knowledge of and consents to the APPLICATION. If the APPLICANT is acting in the name of a trust, corporation or company, a letter documenting the authorizing vote shall be attached.

3.2 Certified Abutters List

List of the PARTIES IN INTEREST as defined in these RULES, taken from the most recent tax list of the TOWN and certified by the Town Assessor. The APPLICANT shall pay any charges required by the Town Assessor for the list.

3.3 Other Permits, Approvals and Variances

List and copies of variances, permits, and other special permits previously issued by other TOWN boards or State and Federal agencies affecting the proposed SIGN, and a list of any variances or permits required to erect the proposed SIGN.

NOTE: If any other special permits are required from the BOARD, the APPLICANT is hereby strongly advised to make the applications for such additional permits concurrently with this PERMIT APPLICATION.

3.4 Locus Plan

Locus plan showing an area a minimum of one mile diameter at a scale of 1"=1200' with major STREETS, BUILDINGS, brooks streams, rivers and other landmarks shown with sufficient clarity to show the relationship of the LOT to the community.

3.5 SIGN Rendering

A colored rendering of the proposed SIGN(S) legibly drawn at a standard architectural scale, as appropriate, showing all details and dimensions of the SIGN(S) including facing, frame, supports, proposed materials, all colors to be utilized, lettering size and styles,

illustrations or pictures, method(s) of illumination, and landscaping (if any) and all dimensions.

- 3.5.1 If the proposed SIGN(S) is an exterior SIGN, the rendering shall show the proposed SIGN(S) in relation to the BUILDING and its architectural features, including other existing SIGN(S).
- 3.5.2 If a projecting SIGN or awning SIGN is proposed, the applicant shall provide in addition to the rendering a profile plan of the BUILDING with such SIGN(S).
- 3.5.3 If the proposed SIGN is a freestanding SIGN or other SIGN not attached to a BUILDING or STRUCTURE, the applicant shall show a profile section or horizontal view with dimensions from the STREET centerline to the principal STRUCTURE or BUILDING (including such STRUCTURE or BUILDING) which illustrates how the SIGN relates to the existing features.

3.6 SIGN Location Plan

A plan with a north arrow drawn at an appropriate engineering scale showing the location of the proposed SIGN(S) and all existing SIGN(S) on the LOT in relation to BUILDINGS and improvements, landscaping, landmarks and natural features contained within the LOT boundaries, and on adjacent STREETS.

A written statement clearly indicating the type and number of SIGN(S) and/or dimension of the proposed signs that exceeds the basic limitations of the BYLAW, thereby requiring a PERMIT.

3.7 Additional Information

The BOARD is empowered by the BYLAW to require information in addition to that specifically required by the BYLAW or by these RULES. The BOARD will require the APPLICANT to supply additional information if it finds that such information is necessary to properly act upon the APPLICATION in question.

SECTION 4
FILING PROCEDURES

4.1 Who may file an APPLICATION?

Anyone may file an APPLICATION for a PERMIT provided that the property owner of record has signed the APPLICATION form thereby granting his/her consent to the filing of the APPLICATION.

4.2 APPLICATION Fees

Any APPLICATION shall be accompanied by a fee of \$250.00 to cover the expenses incurred by the TOWN in reviewing the APPLICATION. The fee is not refundable. The fee shall be submitted in check form and made payable to the "Town of Acton".

4.3 Submission to the TOWN Clerk and the BOARD

Two complete paper copies of the APPLICATION shall be submitted to the office of the Acton Town Clerk. The Clerk will certify the date and time of filing on both copies, keep one of the copies, and return the other to the APPLICANT. The copy returned by the Clerk and the required fees shall then be filed forthwith by the APPLICANT with the office of the BOARD during normal business hours. The APPLICANT may request and shall be entitled to a written receipt for the materials submitted.

4.4 Review of APPLICATION

The BOARD will transmit a copy of an APPLICATION to various other TOWN departments, boards, committees, agencies, or independent consultants in order to ensure full and qualified review of the APPLICATION. Thirty-five (35) days will be provided for such reviews; failure to submit comments on the APPLICATION shall be deemed an approval by the reviewing party. The BOARD will make available to the APPLICANT upon request a copy of any comments or recommendations received.

If significant information that was not included in the APPLICATION is presented at a later time or at the public hearing, the hearing may be continued to allow for staff review of the new material. Additional materials shall be submitted to the Board in the same manner and form as the original APPLICATION.

SECTION 5
PUBLIC HEARING & DECISION

5.1 Public Hearing Notice

The BOARD will hold a public hearing within 65 days of the APPLICATION filing date. Pursuant to M.G.L. ch. 40A, s. 11, the BOARD will give notice of the time and place of the public hearing and its subject matter, sufficient for identification, as follows:

- 5.1.1 By publication of the notice in a newspaper of general circulation in the Town of Acton once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the public hearing. The newspaper will send the bill for the advertisement directly to the Applicant and the Applicant shall pay the bill directly to the newspaper.
- 5.1.2 By posting the notice in a conspicuous place in the Acton Town Hall or on the official Town of Acton website for a period of not less than fourteen days before the day of the public hearing.
- 5.1.3 By mailing the notice with Accountable Mail to all PARTIES IN INTEREST.
- 5.1.3.1 At least 21 days before the day of the public hearing, the APPLICANT shall submit to the Planning Department the Accountable Mail letters containing the notice, addressed to each PARTY IN INTEREST, sender shown as the Town of Acton Planning Board, 472 Main Street, Acton, MA 01720. The envelopes are to be sealed, ready to be mailed, accompanied by one copy of the notice for the BOARD record, and payment to the Town of Acton for the cost of the Accountable Mailings. In addition, submit a duplicate set of empty, open envelopes, standard postage prepaid, addressed to each PARTY IN INTEREST, sender as above, for the mailing of the decision notice.

5.2 Public Hearing Presentation

An APPLICANT may appear on his/her own behalf or be represented by an agent or attorney. It is the responsibility of the APPLICANT or his/her agent to present the APPLICATION to the BOARD and to the public. In the absence of an appearance, the BOARD may decide the matter using the information it has received. Failure to appear at a public hearing could seriously jeopardize the success of an APPLICATION.

Presentation of the APPLICATION by the APPLICANT should not exceed 10 minutes in duration except for good reason. The APPLICANT may be requested to answer questions raised by the BOARD or the public.

The BOARD will retain any evidence which has been introduced at the hearing for reference in its deliberations on the case.

In no case will the BOARD allow new evidence to be admitted after the close of the public hearing unless this evidence was specifically requested by the BOARD prior to the close of the public hearing.

5.3 Withdrawal of APPLICATION

Any APPLICATION for a PERMIT submitted hereunder may be withdrawn without prejudice by notice in writing to the BOARD prior to the notice of a public hearing being posted or mailed pursuant to Sect. 5.1 above. Withdrawal of any APPLICATION thereafter requires BOARD approval. No refund of fees will be provided if an APPLICATION is withdrawn.

5.4 Time Period for Deliberation

The BOARD will act on each APPLICATION for a PERMIT within ninety (90) days after the public hearing, unless such APPLICATION has been withdrawn from consideration as set forth in Section 5.3 above.

- 5.4.1 Continuation & Extension - The period within which final action shall be taken may be extended for a defined period by written agreement between the BOARD and the APPLICANT. In the event that the BOARD determines that the APPLICATION is inadequate for the BOARD to make a finding, the BOARD may, at its discretion, continue the hearing to a later date to permit the APPLICANT to submit a revised APPLICATION. The BOARD may, at its discretion, require that an additional \$100 fee be paid by the APPLICANT prior to the close of the public hearing if such a continuation results from a deficiency in the original APPLICATION. Such a continuation may not automatically extend the 90-day period within which final action shall be taken by the BOARD unless the extension is agreed upon by both the BOARD and the APPLICANT.

5.5 DECISION

The concurring vote of five (5) of the seven (7) members of the BOARD shall be necessary to decide in favor of granting a PERMIT.

Only those members of the BOARD who were in attendance at the public hearing may vote on the APPLICATION in question.

The BOARD will file its DECISION with the Town Clerk and send a copy to the APPLICANT by certified mail. The BOARD shall also send a notice of its DECISION to the property owner, to other TOWN boards and departments, to PARTIES IN INTEREST, and to those who have requested such notice at the public hearing.

5.6 Recording of DECISION

The recording of a DECISION is required by THE ZONING ACT and the BYLAW. The APPLICANT shall be responsible for recording a full copy of the DECISION in the Middlesex South District Registry of Deeds in Cambridge or the Land Court and for paying any required recording fees. A copy of the recorded DECISION, certified by the Registry of Deeds, must be submitted to the BOARD and the Zoning Enforcement Officer prior to issuance of a SIGN Permit or the start of any work.

5.7 Submission of Approved Plans

The approved plan as amended by the BOARD in its DECISION of approval shall be submitted in PDF format, plus one paper copy, to the office of the BOARD prior to the issuance of a SIGN Permit or SIGN License. The Zoning Enforcement Officer will not issue a Sign License until he finds the plan in full compliance with the BOARD'S DECISION.

5.8 Appeal of DECISION

Any person aggrieved by a DECISION of the BOARD, whether or not previously a party to the proceeding, may appeal such DECISION in accordance with M.G.L., Chapter 40A, Section 17 within 20 days after the filing of the DECISION with the Office of the Town Clerk.

5.9 Time Limit for PERMIT

Any PERMIT granted by the BOARD shall lapse within two years from the date of filing of the BOARD'S DECISION with the Office of the Town Clerk unless substantial USE or construction under the PERMIT has begun, except for good cause, or if the BOARD has specified a shorter time period in the DECISION. A reasonable extension of said time may

be granted by the BOARD where good cause is shown. Any request to the BOARD for such an extension of time must be submitted to the BOARD and a copy thereof to the Office of the Town Clerk at least 30 days prior to the date when the PERMIT is due to lapse. Failure to submit such a request as prescribed above shall be due cause for the BOARD to deny the requested time extension.

5.10 Limitation of the DECISION

The granting of a PERMIT constitutes approval only under the pertinent sections of the BYLAW. Other permits or approvals required by other governmental boards, agencies, or bodies having jurisdiction such as the Board of Health, Acton Water District, and Conservation Commission shall not be assumed or implied. The BOARD may condition any PERMIT hereunder on satisfactory demonstration of compliance with the requirements of other governmental bodies having jurisdiction prior to the erection of the SIGN. The APPLICANT is hereby encouraged to seek approvals and certificates of compliance from such other governmental bodies prior to or concurrently with the APPLICATION to the BOARD.

5.11 Repetitive Petition

Pursuant to M.G.L., Chapter 40, Sect. 16, no APPLICATION which has been unfavorably and finally acted upon by the BOARD shall be acted favorably upon within two years after the date of final unfavorable action unless four members of the BOARD vote to find that specific and material changes in the conditions upon which the previous unfavorable action was based have occurred and describe such changes in the records of the BOARD'S proceedings, and all but one member of the BOARD consents to the consideration of the matter. Notice to PARTIES IN INTEREST shall be given by the APPLICANT of the time and place of the proceedings at which the question of consent will be considered.

5.12 Amending a SIGN PERMIT

A previously granted PERMIT may be amended by written request to the BOARD or on the BOARD'S own motion. The BOARD shall determine whether any request for further alterations to a site constitutes a minor amendment or if such request should be considered a new APPLICATION requiring a public hearing. The BOARD may amend a PERMIT without a new public hearing provided it finds that the amendment is not significant to the public interest and is consistent with the purpose and intent of the BYLAW. Consultation with the Planning Department is recommended prior to the filing of any request to amend a PERMIT. The fee for minor amendments shall be \$100.

APPENDIX

Application for SIGN Special Permit

Notice of Public Hearing

**ACTON PLANNING BOARD
APPLICATION FOR A SIGN SPECIAL PERMIT**

Refer to the "Rules and Regulations for SIGN Special Permits" available from the Planning Department for details on the information and fees required for this application. Contact the Planning Department at 978-929-6631 with any questions concerning the Rules. Incomplete applications may be denied.

1. Location and Street Address of Site

2. Applicant's Name: _____

Address: _____

Telephone: _____ E-Mail: _____

3. Record Owner's Name: _____

Address: _____

Telephone: _____ E-Mail: _____

4. Surveyor: _____

Address: _____

Telephone: _____ E-Mail: _____

5. Engineer: _____

Address: _____

Telephone: _____ E-Mail: _____

6. Zoning District(s) of Parcel(s) _____

Town Atlas Map & Parcel Number(s) _____

7. Indicate the subsection(s) of BYLAW Section 7.13 for which the PERMIT is sought:

8. Describe all SIGNS presently displayed by the business (including type of SIGN/s, size of SIGN/s and location of SIGN/s).

The undersigned hereby apply to the Planning Board for a public hearing and a SIGN Special Permit under Section 7.13 of the Zoning Bylaw.

The undersigned hereby certify that the information on this application and plans submitted herewith is correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of his/her knowledge.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

Date

Signature of Petitioner

RECORD OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the application presented above.

Date

Signature of Owner

ACTON PLANNING BOARD

PUBLIC HEARING NOTICE

In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 9, the Acton Planning Board will hold a public hearing on _____, _____ at _____ P.M. at _____, Acton, MA on the petition of _____ for approval of a SIGN SPECIAL PERMIT for the property located at _____ and shown on Town Atlas Map _____, parcel _____.

Please note the following information:

Such permits may be granted by the Planning Board under Massachusetts General Law, Chapter 40A and the Acton Zoning Bylaw in accordance with the “Rules and Regulations for Sign Special Permits” all of which are available for review or purchase at the offices of the Planning Board, and the Town Clerk. A copy of the application is also available for review at these offices in Town Hall between 8:00 A.M. and 5:00 P.M., Monday through Friday.

The applicant or his/her representative will be at the hearing to present the reason(s) why the permit should be granted.

When the applicant or his/her representative has concluded their presentation, the Chairman of the Board will allow the Board members to speak to the matter under consideration or to raise questions and concerns. Subsequently, the Chairman will give the public the same opportunity to speak to the matter under consideration or to raise questions and concerns.

The Chairman will not allow any member of the public to interrupt anyone else while they are speaking. Each person wishing to speak at the hearing should be as brief as possible and should wait his/her turn. Each person speaking should avoid repeating the comments of those who preceded them. Each person speaking should state their name and address before they make their statement or ask questions.

Any party may appear in person, by agent, or by attorney at any hearing. When all of the facts have been presented and all persons wishing to speak on the petition have been heard, the Chairman will close the hearing. In no case will the Board allow new evidence to be admitted after the close of the public hearing unless this evidence was requested by the Board prior to the close of the public hearing.