

ZONING

255 Attachment 5

Town of South Hadley

Appendix C

Planning Board Rules and Regulations

Application Review Fees

Special Municipal Account Pursuant to MGL c. 40A, § 9

Authority

1. Intent.

When reviewing an application for permit/approval, the Board may determine that the assistance of outside professional expertise and/or consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts.

The Board may require that applicants pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside professional expertise and/or consultants engaged by the Board to assist in the review of an application.

Professional Fields

2. 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.

Minimum Qualifications

All consultants selected by the Board must meet minimum qualifications consisting of:

- a. An educational degree in or related to the field at issue, from a recognized public or private college or university; or
- b. Three or more years of practice in the field at issue or a related field.

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).

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Deposit of Funds

3. Establishment of Special Account

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.

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.

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.

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.

Failure to Pay

Failure of an applicant to pay a review fee shall be considered as an incomplete application and therefore not allow the application to go forward.

Use of Funds

4. Use of Funds

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.

Special Account to Cover Review Costs

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.

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Excess Funds Returned

At the completion of the Board's review of a proposed project, or at a time determined at the submission of the application/permit, 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.

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.

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.

Appeal Body

5. Method of Appeal

Any applicant may take an administrative appeal from the selection of the outside professional expert and/or consultant to the Board of Selectmen.

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.

Seven Days to File Appeal

Any applicant aggrieved by a selection of an outside consultant may appeal to the Board of Selectmen, provided that such appeal is entered within seven 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 Board of Selectmen.

Waiver of Appeal

The applicant should notify the Board of its intention to seek a waiver at the earliest possible time in the review and consultant selection process. If the applicant fails to sign and/or file a formal waiver of appeal, this action will be then viewed as an intention to appeal on the part of the project applicants. Failure to inform the Board of such intention of appeal may result in the delay of start-up of the Town outside review services.

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Action on an Appeal

In acting on an administrative appeal, the Board of Selectmen may determine that:

- a. A conflict of interest does exist, and/or the consultant does not meet the minimum qualifications; therefore, the Board must select another consultant; or
- b. A conflict of interest does not exist, and/or the consultant does meet the minimum qualifications; therefore, the selection made by the Board stands.

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.

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.