

**RECONSTRUCTION OF NONCONFORMING  
MULTI-FAMILY DWELLING**

**SPECIAL PERMIT RULES AND REGULATIONS**



**PLANNING BOARD**

**TOWN OF ACTON**

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**APPENDICES**

Application for Special Permit for the Reconstruction of a Nonconforming Multi-family Dwelling  
 Notice of Public Hearing

# SECTION 1

## GENERAL PROVISIONS

### 1.1 Authority

These Rules are adopted by the Planning Board as authorized by MGL Chapter 40A and the Acton Zoning Bylaw.

### 1.2 Purpose

The purpose of these Rules is to establish uniform procedures for conducting the business of the Board under its jurisdiction as a Special Permit Granting Authority for the Reconstruction of Nonconforming Multi-family Dwellings pursuant to section 8.7 of the BYLAW.

### 1.3 Applicability

Any person applying for a Special Permit under section 8.7 of 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; 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 Acton Planning Board; and the Planning Board of every abutting city or town.
PERMIT	A Special PERMIT for the Reconstruction of a Nonconforming Multi-family Dwelling under to section 8.7 under for the BYLAW.
RULES	The Special PERMIT Rules and Regulations as contained herein.
TOWN	The TOWN of Acton.

Other Definitions - Refer to the "Definitions" section of the BYLAW for additional defined terms which are also capitalized when used in these RULES.

### 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 and when applicable, the Town of Acton SUBDIVISION Rules and Regulations.

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 for the requested waivers.

**1.6 Provision of Security**

The BOARD may require in its DECISION that security be posted with the TOWN in such form and amount as is required by the BOARD to secure the satisfactory completion of all or any part of the work authorized under a PERMIT. The form of security shall be generally as required in the Town of Acton SUBDIVISION Rules and Regulations.

**1.7 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.

**1.8 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 under these RULES 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 of an APPLICATION shall be free of charge. Subsequent preliminary reviews shall require payment of a fee by the prospective APPLICANT of \$500 at the time of submission. The fee shall be submitted in check form and made payable to "Town of Acton."

## **SECTION 3**

### **CONTENTS OF AN 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, and, where applicable, the information listed in section 4.

Changes made during the course of the APPLICATION review process, and requests for amendments of previously issued PERMITS and approved plans 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 Special Permit for the Reconstruction of a Nonconforming Multi-family Dwelling" attached to these RULES and also available from the office of the BOARD at Town Hall.

3.1.1 In the case where the APPLICANT is a person other than the record owner of the property, the APPLICANT shall obtain the owner's signature on this form indicating that the owner has knowledge of and consents to the APPLICATION.

3.1.2 If the APPLICANT is acting in the name of a trust, corporation, or company, an 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 Existing (or previously existing) Dwelling & Proposed Dwelling**

Detailed descriptions of the existing (or previously existing) dwelling & the proposed new dwelling, side by side, including but not limited to total NET FLOOR AREAS, the numbers of DWELLING UNITS, foot print area, height, number of floors, elevator, garages, attic, basement, and detailed itemizations of non-conformities to the BYLAW. The APPLICANT shall declare whether or not HAZARDOUS MATERIALS OR WASTES are expected to be generated, stored, used, or disposed of in the proposed new dwelling. All generation, use, storage, and disposal must comply with the TOWN's Hazardous Materials Control Bylaw.

#### **3.4 Other Permits and Variances**

List and copies of variances, permits, and other special permits previously issued by other TOWN boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Conservation Commission, the Board of Appeals, the Planning Board, the State Dept. of Public Works, the Army Corp. of Engineers, and the

State Dept. of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

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.

### **3.5 Recorded Plans and Deeds**

A copy of the most recently recorded plan(s) and deed(s) for the LOT(s) on which the work will take place bearing the book number(s), page number(s), and date(s) of recording(s) or registration(s).

### **3.6 Mortgage Holders**

A list of mortgage holders which shall be kept current during the period of development.

### **3.7 Drainage Calculations**

Storm drainage runoff calculations used for the proposed new drainage system design must be prepared by and display the seal of a Registered Professional Engineer and must support the sizing of all drainage structures and pipes. These calculations must be based on a recognized standard method (usually the Rational or Soil Conservation Service Methods). The calculations must contain a written summary explaining the rationale of the design so that a lay person can understand the basic design approach and its validity for the site in question. Furthermore, the calculations should be fully documented including copies of charts or other reference sources to make review possible. The pre- and post-development runoff rates must be provided. If applicable, the methods used to comply with the "Stormwater Runoff" design standards of the BYLAW shall be described. The use of computer generated reports is acceptable; however, the source of the software should be identified. Design of the storm drainage system can generally be based on a 10-year storm event; however, the system design shall not result in serious flood hazards during a 100-year storm.

### **3.8 Earth Removal Calculations**

Calculations for determining the amount of earth to be removed or the amount of FILL to be brought to the site shall be prepared by and show the seal of a Registered Professional Engineer.

### **3.9 Water Balance Calculations**

The portion of the site in each GROUNDWATER Protection District Zone shall be noted. A hydrologic water balance calculation for pre- and post-development conditions based on annual precipitation that quantifies evapotranspiration, runoff, recharge, and septic flow shall be included. Compliance with all applicable portions of Sect. 4.3 of the BYLAW shall be demonstrated.

### **3.10 Site Plan**

The Site Plan with the form and contents as set forth below shall be submitted in electronic PDF and scalable CADD formats and registered to the Massachusetts State Plane Coordinate System, plus 2 full size plans printed on 24" x 36" sheets and 11 copies thereof reduced to fit legibly on 11"x17" or 8.5"x11" sheets.

A Site Plan shall be legibly drawn to fully detail and explain the intentions of the APPLICANT. Site Plans shall be drawn at a standard scale (1 inch = 20, 40, or 50 feet) except when noted otherwise. All plans shall include a reasonable numbering system for



LOTS, BUILDINGS and DWELLING UNITS. Each plan sheet shall feature a north arrow, a legend identifying any representative symbols used on the sheet in question, an appropriate title block in the lower right hand corner, and the seal of a Registered Professional Engineer, Registered Land Surveyor, Registered Landscape Architect, Registered Professional Architect, or some combination of these as appropriate to the data on the sheet. Topography and all elevations shall be referenced to the National Geodetic Vertical Datum of 1929 with the location and elevation of the starting bench mark plus at least two additional temporary bench marks on the site.

The individual components of the Site Plan (i.e. Master Plan, Natural Features and Existing Conditions Plan, etc.) may be presented on one or more plan sheets as necessary to present clear and legible plans. Match lines shall be placed in plan locations that feature a minimum of information. Sufficient overlap between plan sheets shall be provided to permit easy reading of plans across match lines. Unless other arrangements are made with staff during the preliminary review process, the Site plan shall contain the following:

- 3.10.1 A locus map 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 site to the community, its facilities and major features.
- 3.10.2 An existing conditions plan of the building and site. Or, a plan of the building and site as it previously existed; or photographs where no plan exists.
- 3.10.3 Natural Features including existing topography, SURFACE WATER bodies, wetlands, flood plain, natural drainage courses, ledge outcropping, and existing vegetation.
- 3.10.4 Names and addresses of the owner of record, abutters, the engineer and the land surveyor, the book and page number of the recording of the deed or the Land Court certificate.
- 3.10.5 Lot boundaries and all existing and proposed easements.
- 3.10.6 All Zoning Districts on or abutting the site, including all overlay districts (GROUNDWATER PROTECTION DISTRICT (GPD) ZONE(S), Affordable Housing Overlay Sub-District(s), Flood Plain District Zone(s)).
- 3.10.7 A zoning table with required and proposed dimensions for total LOT area, net floor area, floor area ratio, open space, building height, setbacks number of dwelling units, and all other relevant zoning dimensions.
- 3.10.8 Proposed site improvements (including existing improvements to be retained, if any) such as building locations, driveways, parking lots and parking spaces, walkways and sidewalks, and all other impervious covers, with dimensions shown, and details and notes where customary and appropriate.
- 3.10.9 Existing and proposed post development topography in 2 foot contours, with reference to the NGVS of 1929.
- 3.10.10 All provisions for site drainage and water quality control including details and notes as customary and appropriate.
- 3.10.11 Provisions of utilities, including details ad notes as customary and appropriate.
- 3.10.12 Erosion, sedimentation and siltation control devices to be utilized during construction, including details and notes as customary and appropriate.
- 3.10.13 The proposed location of the wastewater treatment and disposal system, with locations of pipes, pumps, tanks, etc.

- 3.10.14 Plan notes that: 1) forbid the use of FILL containing HAZARDOUS MATERIALS OR WASTE in accordance with the BYLAW; 2) require the marking of the limits of work in the field prior to the start of construction or site clearing; 3) require the cleaning of catchbasin sumps and stormwater basins following construction and annually thereafter; 4) restrict the hauling of earth or construction debris to or from the site to the hours between 9 AM and 4 PM on weekdays if such materials are intended to be removed from or brought to the site; 5) describe the materials to be used in the construction of impermeable surfaces such as sidewalks and driveways 6) make reference to any other design, operation or construction requirements in compliance with these RULES and the BYLAW.
- 3.10.15 Outdoor lighting plan, details, and notes.
- 3.10.16 Landscape Plan showing existing and proposed limits of clearing and existing and proposed landscape treatments.
- 3.10.17 Architectural Floor and Elevations Plan.

**3.11 Additional Information**

The APPLICATION may contain whatever additional information the APPLICANT feels is necessary to properly inform the BOARD about the development including legal opinions, copies of deeds, historical data, studies, and reports.

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 shall sign 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 in the amount of \$2,500.00 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". Part of the filing fee may be waived if the BOARD chooses to have some of the review work performed by outside consultants as provided below.

4.2.1 Additional Review Fee Deposits - So that the BOARD may make the findings required under the BYLAW and insure that the public safety will be protected, the BOARD may select and hire outside traffic, engineering, legal, or planning consultants to review an APPLICATION. To cover the cost of these reviews a review fee deposit may also be required of an APPLICANT at the time of submission or at any appropriate time in the review process. As the scope of study and review will vary according to the size of a particular project, the APPLICANT is hereby strongly advised to consult the Planning Department concerning the scope and cost of any such studies during the preliminary review. Failure to do so could result in serious delays in the processing of the APPLICATION. The amount of the fee deposit will reflect the anticipated consultant fee(s) plus 10%. Note that some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review. Any amount of the deposits remaining after the issuance of Building Permits for the proposed construction plus any remaining accrued interest will be repaid to the APPLICANT or the APPLICANT's successor in interest.

4.2.2 Appeal from the Selection of the Consultants - The APPLICANT may appeal from the selection of an outside review consultant to the Board of Selectmen. 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 of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The APPLICANT must specify the specific grounds which the APPLICANT claims constitute a conflict of interest or a failure to meet minimum professional requirements.

#### **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, the remaining 2 copies of full size plan, the 11 reduced size plan copies, 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/its own behalf or be represented by an agent or attorney. It is the responsibility of the APPLICANT or his/her/its 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.

- 5.2.1 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.
- 5.2.2 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. 6.1 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 6.3 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 \$500 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.

- 5.5.1 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 BUILDING Permit or the start of any work.

#### **5.7 Submission of Approved Plans, Endorsement**

Prior to the issuance of a BUILDING permit, the approved plan as amended by the BOARD in its DECISION of approval shall be submitted for endorsement to the office of the BOARD in electronic PDF and scalable CADD formats and registered to the Massachusetts State Plane Coordinate System, plus 1 full size plan printed on 24" x 36" sheets. No BUILDING Permit will be issued until the plan is found to be in compliance with the BOARD'S DECISION and such endorsement has occurred.

#### **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 MGL, 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.

- 5.9.1 A reasonable extension of said time may be granted by the BOARD where good cause is shown. Any request for an extension of the specified time limitation set forth in the DECISION shall be made in writing to the BOARD at least thirty days prior to the expiration date. The BOARD reserves its rights to grant or to deny such extension if good cause for such extension is not shown. Failure to submit such a request as prescribed above shall be due cause for the BOARD to deny the requested time extension.

## **5.10 As Built Plan**

Upon project completion, the APPLICANT shall provide two copies of the As Built Plan, plus electronic copies in PDF and scalable CADD formats, registered to the Massachusetts State Plane Coordinate System. The As Built Plan shall show the entire project as completed including but not limited to the drainage, and wastewater disposal systems; final grading and limits of clearing; driveways; parking LOTS; public and private utilities (above and below grade); and BUILDINGS and STRUCTURES as they exist. All elevations shall refer to the National Geodetic Vertical Datum (NGVD) of 1929.

## **5.11 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 start of any work on the site, the issuance of a BUILDING Permit, or any other appropriate step in the development process. 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.

## **5.12 Repetitive Petition**

Pursuant to MGL., 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.

## **5.13 Amending a 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 \$250.



## **APPENDIX**

Application for Special Permit for the Reconstruction of a Nonconforming Multi-family Dwelling

Notice of Public Hearing

**APPLICATION  
SPECIAL PERMIT FOR RECONSTRUCTING A NONCONFORMING MULTI-FAMILY  
DWELLING**

Refer to the "Rules and Regulations for Special Permits for the Reconstruction of Nonconforming Multi-family Dwellings" 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.

Please type or print your application.

1. Location and Street Address of Site

\_\_\_\_\_

2. Name of Proposed Development

\_\_\_\_\_

3. Applicant's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

4. Record Owner's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone \_\_\_\_\_ E-Mail: \_\_\_\_\_

5. Zoning District(s) of Parcel(s) \_\_\_\_\_

Town Atlas Map(s)/ Parcel Number(s) \_\_\_\_\_

6. a) Total Area of Lot \_\_\_\_\_ ac.      b) Number of dwelling units \_\_\_\_\_

c) Number of Affordable Units \_\_\_\_\_      d) Number of Handicapped Units \_\_\_\_\_

e) Number of parking spaces: Total \_\_\_\_\_ Per unit \_\_\_\_\_

f) Method of sewage disposal \_\_\_\_\_

7. Deed Book & Page number(s) or Land Court Certificate number(s): \_\_\_\_\_

The undersigned hereby apply to the Planning Board for a public hearing and a Special Permit for the Reconstruction of a Nonconforming Multi-family Dwelling under the 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.

\_\_\_\_\_  
Signature of Applicant(s)

\_\_\_\_\_  
Signature of Applicant(s)

\_\_\_\_\_  
Date

**RECORD OWNER'S KNOWLEDGE AND CONSENT**

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Record Owner(s)

\_\_\_\_\_  
Signature of Record Owner(s)

\_\_\_\_\_  
Date

**ACTON PLANNING BOARD**  
**NOTICE OF PUBLIC HEARING**

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 Special Permit for the Reconstruction of Nonconforming Multi-family Dwelling on the parcel 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 "Special Permit Rules and Regulations for the Reconstruction of Nonconforming Multi-family Dwellings" 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 AM and 5:00 PM, 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.