

**RULES & REGULATIONS
of
THE BRAINTREE ZONING BOARD OF APPEALS**



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Approved: July 14, 2025

SECTION 1. ORGANIZATION

PREFACE: These rules hereby expressly supersede any and all written and/or oral rules upon which the Braintree Zoning Board of Appeals ("ZBA" or "Board") operated prior to the enactment of this document. Further, this document does not furnish or constitute legal advice, and any and all references to federal, state, or local laws are furnished for convenience only. Those who seek to appear before the ZBA should consult their own private attorney for legal advice. Applicants are advised that failure to comply with these regulations may be grounds for denial of an application.

A. APPOINTMENT of MEMBERS and ORGANIZATION of BOARD

The ZBA shall consist of three regular voting members and two associate members appointed pursuant to MGL c. 40A, § 12, Section 2.705.010 of Braintree's General Ordinances, and Section 135-204 of the Zoning Ordinance. The ZBA shall annually elect the Board Chair. A majority of all regular voting ZBA members must vote favorably to elect the Board Chair. Associate ZBA members shall not participate in the vote to elect the Chair.

B. DUTIES of MEMBERS

The ZBA shall be responsible for:

- 1.) Hearing appeals of zoning decision(s) of the Building Inspector, pursuant to Braintree Zoning Ordinance Section 135-204;
- 2.) Acting on requests to modify or alter preexisting nonconforming structures and/or lots, pursuant to Braintree Zoning Ordinance Section 135-401;
- 3.) Acting on requests for Variances from the density and dimensional requirements, pursuant to Braintree Zoning Bylaw Section 135-407;
- 4.) Issuance of earth removal permits, pursuant to Braintree Zoning Bylaw Section 135-204.
- 5.) Acting on Comprehensive Permits, pursuant to G.L. c. 40B and regulations promulgated by the Executive Office of Housing and Livable Communities (EOHLC)" 760 CMR 56; and
- 6.) Acting on any other lawful matter that may require review and approval by the ZBA.

Chair - The chair shall oversee the transaction of official business of the ZBA, coordinate with the Zoning Planner, Building Inspector and/or Planning and Community Development Department when necessary, conduct the meetings and public hearings of the ZBA and decide all points of order unless overruled by the majority of the members of the ZBA. The chair shall vote and be recorded on all matters before the ZBA. Every ZBA vote requires a Motion and a second of the motion for the vote to proceed.

Associate Members - The chair shall designate an associate member to sit on the Board

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in the case of absence, inability to act, or conflict of interest on the part of a regular voting member. In the event of a vacancy of a regular voting member on the ZBA, the chair shall designate an associate member to act as a member of the Board until another person or associate is appointed and approved to serve on the ZBA.

SECTION 2. MEETINGS

A. QUORUM

A quorum for taking any action on zoning applications, petitions and appeals is three (3) members. Only those members who have participated in all aspects of the case may vote on said case. In the event of a member misses a single session of a public hearing, the "Mullin Rule," so-called as provided under G.L. c. 39, Sec. 23D, adopted by the Town on February 8, 2017, may be invoked.

B. REGULAR MEETINGS

Regular meetings of the ZBA shall be held at 7:00PM on the fourth Monday of the month. All regular meetings of the ZBA shall be posted in Town Hall in front of the Planning and Community Development Department, and on the Town's website, in accordance with the Open Meeting Law, M.G.L. Chapter 30A, Sections 18-25.

C. SPECIAL MEETINGS

Special hearings and meetings may be called by the Chair or the designated Chair in the Chair's absence. Notice of special hearings and meetings shall be mailed, posted, and published as required by law.

D. SITE VISITS

The Board members and/or administrative staff, at their discretion, may conduct a site visit, collectively or individually, of the subject property of the petition, application or appeal. The site visit shall not be a meeting of the Board, as no deliberations or decisions shall be made by the ZBA on such a site visit, in accordance with the Open Meeting Law. Any applicant for relief, whose property is subject to a prospective site visit, shall accommodate such visit; and any refusal on the part of the applicant to allow such site visit could impede approval of the application.

E. OPEN MEETING LAW

All meetings of the ZBA shall be subject to and comply with the Open Meeting Law and G.L. c. 40A.

SECTION 3. GENERAL PROVISIONS

A. PURPOSE AND AUTHORITY

These Rules and Regulations are adopted by the ZBA, as provided in the Braintree

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Zoning Ordinance, Section 135-204, and in Chapters 40A and 40B of the Massachusetts General Laws for the purpose of establishing uniform rules and procedures for the granting of Special Permits, Variances, and/or Appeals of an order or decision by the Building Inspector . Applicants must also comply with any and all other requirements and procedures set forth in the Braintree Zoning Ordinance, Chapter 40A of the Massachusetts General Laws.

B. APPLICABILITY

A property owner, agent or prospective purchaser who submits certification of property interest and authority, may file an application for a Special Permit, a Finding under G.L. c. 40A, Sec. 6., Variance and/or Appeal. The property owner on record shall be the signatory on the official ZBA application form unless documentation is submitted providing authorization for an applicant or the applicant’s representative to appeal or submit on the behalf of the property owner. An application submitted without compliance with this paragraph’s signatory requirements may be considered a failure to submit a complete application and could result in denial of the application.

C. ADOPTION AND AMENDMENT

These Rules and Regulations may be adopted and, when necessary, amended by a unanimous vote of the Board during a regularly scheduled public meeting.

D. EFFECTIVE DATE

These Rules and Regulations are effective when voted on affirmatively by the Board and filed with the Office of the Town Clerk.

SECTION 4. FEES FOR VARIANCES, FINDINGS, APPEALS & COMPREHENSIVE PERMITS

A. APPLICATION FEES

All application fees are due and payable at the time of filing the application to be heard before the Board.

ZBA Petition Fee Schedule	
Single Family Dwelling	\$150 for alterations/additions
Single Family Demolition/Reconstruction/New Construction	\$300
Two-Family Dwelling	\$300 for alterations/additions
Multi-Family Dwelling	\$150 per/unit* for alterations/additions/new construction
Dimensional changes to property(s)/lot(s)	\$150 per/lot*
Non-residential	\$300**
Signage	\$250***
Appeal of Building Inspector	\$150
40B	\$3,000****
Wireless Communications	\$1,000

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*max \$1500
**additional \$50 per 1,000 gfa. (Max \$1,500) of alteration/addition/reconstruction
***additional \$50 per sign
****additional \$100 per unit (see Comprehensive Permit Regulations)

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B. REVIEW FEES

The following Review Fee Rules, were adopted on October 26, 2016, pursuant to G.L. c.40A, §9 and 12, G.L. c.40B, §21 and G.L. c.44, §53G.

1. When reviewing an application for, or when conducting inspections in relation to an application of an appeal, Variance application, special permit application, Finding or Comprehensive permit application, the Board may determine that the assistance of outside consultants is warranted due, for instance and without limitation to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the matter before the Board. The Board may require that an Applicant tender a stated sum with the Town Treasurer/Collector to be deposited into the Town's G.L. c. 44, Sec. 53G account for this project, in order to retain such consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional funds from the applicant.
2. In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, planners, and attorneys for special legal services, urban designers or other appropriate professionals, who can assist the Board in analyzing a project or application to ensure compliance with all relevant laws, ordinances, standards and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.
3. Funds received by the Board pursuant to this section shall be deposited with the Treasurer/Collector, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c. 44, §53G. 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 for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the application. Alternatively, approval of such application may be conditioned upon payment of any outstanding review fees.
4. At the completion of the Board's review of a project, 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. A final report of said account shall be made available to the applicant or applicant's successor in interest upon request. 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 establishing such succession in interest.

5. Any applicant may make an administrative appeal of the selection of the outside consultant to the Town Council. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. 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. The minimum qualifications shall consist either 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 required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Town Council within one month following the filing of the appeal, the selection made by the Board shall stand.

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SECTION 5. APPLICATION REQUIREMENTS

A. OFFICIAL APPLICATION FORM

Applications for a Variance, Finding, Special Permit, Comprehensive Permit and/or Appeal shall be made on the official application form, which may be obtained from the Town's website or from the Planning and Community Development Department. Any communication not on an official form shall be considered as a notice of intention to apply and not as an application. The Applicant shall ensure the accuracy and completeness of all information submitted to the Board. The Applicant is also responsible for factually supporting all points relied upon in the application. Failure to meet these requirements may constitute grounds for the rejection of an application for review or for disapproval.

The Applicant shall provide, along with the application, a written explanation which clearly and concisely explains the proposed project and materials as defined in Section 6 of these Rules & Regulations to inform the Board of the project.

Any zoning relief that may be required shall be considered by the Board at the time of the hearing.

B. DENIAL OF BUILDING PERMIT

All applications for relief submitted to the Board must be signed by the Building Inspector with the reasons for denial of a building permit. No application will go forward without first receiving such documentation from the Building Commissioner.

C. APPLICATION

At the time of application, the Applicant shall file one (1) paper copy of the official Application form and all plans, exhibits, analyses and/or attachments, as defined in Section 6 of these Rules & Regulations, including an electronic version of all Applications and submissions, and any other information as required for submittal with the Planning

and Community Development Department.

D. CERTIFIED ABUTTERS LIST

A list of "Parties in Interest" will be filed by the Applicant as part of the total application package as required. This list must be created and certified by the Town Assessor's Office. "Parties in Interest" are defined in M.G.L. Chapter 40A, §11, as: "...the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner 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 planning board of the city or town, and the planning board of every abutting city or town."

SECTION 6. PLAN AND REPORT REQUIREMENTS

A. CERTIFIED PLOT PLAN

With the exception of applications for signage only, there shall be filed with every application one (1) full scale, six (6) legible copies, and an electronic version of the certified plot plan with the following details:

1. The plan shall be prepared and stamped by a Registered Land Surveyor and when applicable, a Professional Engineer;
2. Drawn to a scale of 1 inch = 20 feet;
3. The plan shall include petitioner's name, date of plan/survey, referenced plans, and the name of the person drawing the plan;
4. All street names, street lines and house numbers of the abutting properties;
5. Map and lot numbers, as shown on the Braintree Assessor's Plans, areas and boundaries, with dimensions.
6. The Zoning District of the lot in question and surrounding lots;
7. Town of Braintree easements (including, without limitation, easements for sewers and drains);
8. In the case of lots located in Flood Plain/Watershed Overlay areas, documentation of all Flood Plain elevations, brooks, streams, wetlands, wetlands delineation, and ponds;
9. The exterior shape of all existing structures, proposed structures, alterations or additions, with dimensions, to existing structures, together with:
 - a. Front, Rear, and Side Yard setbacks; and
 - b. Driveways, paved areas, and all off- street parking spaces, existing and proposed.
10. The plan shall include a Zoning Table depicting the underlying zoning requirements, existing and proposed analysis of the following:
 - a. Lot Area
 - b. Lot Width
 - c. Lot Depth
 - d. Lot Frontage
 - e. Front Yard Setback
 - f. Side Yard Setbacks
 - g. Rear Yard Setback

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- h. Building Height
 - i. Story Height
 - j. Building Coverage
 - k. Lot Coverage
 - l. Open Space
 - m. Off-Street Parking
 - n. Setbacks to any existing and/or proposed accessory structures
11. Existing and proposed topographical contours at two-foot intervals;
 12. Average Grade of the Lot per Sec. 135-102 of the Zoning Ordinance; and
 13. Building Height depicted pursuant to Zoning Ordinance Section 135-102.

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B. BUILDING AND ELEVATION PLANS

With the exception of applications for signage only, there shall be filed with every application one (1) full scale, six (6) legible copies and an electronic version of the building and elevation plans with the following the following details:

1. The plans shall be drawn to a scale of ¼ inch= 1 foot;
2. The plans shall consist of existing and proposed floor plans, and existing and proposed elevations of all sides;
3. Elevations shall provide existing and proposed building heights, pursuant to Zoning Ordinance Section 135-102; and
4. The plans shall have a title block containing the petitioner's name and address, the name and address of the person who prepared the plans, the date on which the plans were prepared, and the location of the property involved in the petition.

D. SIGNAGE PLANS

There shall be filed with every signage application six (6) legible copies and an electronic version of the following plans:

1. Professional Drawings of Proposed Sign(s) indicating size, color, lettering, type of exterior materials, and illumination details (if applicable);
2. Location Plan:
 - a) Wall signs: drawings of building(s) showing the proposed location/placement of the sign(s) with appropriate scale, and wall frontage linear feet;
 - b) Ground signs: drawings or plot plan indicating location of proposed sign(s).
3. The plans shall have a title block containing the petitioner's name and address, the name and address of the person who prepared the plans, the date on which the plans were prepared, and the location of the property involved in the petition; and
4. Documentation that depicts the proposed site and surrounding properties and any existing signs with dimensions on the property in question.

SECTION 7. DECISION RECORDING

If the ZBA approves the Finding, Variance and/or Appeal, the written decision pertaining to the issue shall be recorded, at the applicant's expense, at the Norfolk County Registry of Deeds and shall be recited in and attached to the deed to the lot served by the action, as required pursuant to M.G.L. Ch. 40A, Section 11.

SECTION 8. ADDITIONAL INFORMATION

The Applicant may submit whatever additional information the Applicant considers relevant to properly inform the Board of the proposed project, which may include legal opinions, deeds, historical data, studies and reports. The Board is empowered to require information in addition to that specifically required by the Zoning Bylaw or these Rules and Regulations, if it finds that this information is necessary to properly act upon the application.

SECTION 9. APPLICATION PROCESS

All applications must be received by no later than 12:00 noon on the application due day as listed on the official ZBA hearing schedule in order to be heard by the ZBA on the following month's date. The ZBA hearing schedule can be found on the Town website or by visiting the Planning and Community Development Department. Hearings are typically six weeks after the application due date. If the appeal application is incomplete or wrongfully advertised for any reason, the application will be re-advertised and scheduled for the next ZBA hearing.

A. VARIANCES

The Board has the authority to grant Variances pursuant to M.G.L. Ch. 40A, Section 10, where owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent or purpose of the bylaw. The applicant for a Variance must provide a statement attesting to the above on the application.

The Board shall hold a public hearing for which notice has been given on any application for a Variance within sixty-five (65) days from the date of filing such application. The Decision of the Board shall be made within one hundred (100) days from the date of filing the application with the Town Clerk, unless mutually extended. Failure by the Board to act within the prescribed time shall be deemed a grant of the Variance.

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B. SPECIAL PERMIT (“FINDING”)

The Board shall hold a public hearing for which notice has been given on any application for a Finding within sixty-five (65) days from the date of filing such application. The decision of the Board shall be made within ninety (90) days from the date of the closing of the Public Hearing, unless mutually extended. Failure by the Board to act within the prescribed time shall be deemed a grant of the Finding.

A written statement providing facts that the proposed addition/alteration/reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming structure and/or lot must be submitted with the application.

C. APPEALS – BUILDING INSPECTOR ORDER/DECISION

Any appeal taken under M.G.L. Chapter 40A, Section 8, and/or Braintree Zoning Bylaw Section 135-202, must be made within thirty (30) days from the date of the order or decision of the Building Inspector. The petitioner shall file the application for the appeal with the Planning and Community Development Department, specifying the grounds for the appeal. The petitioner shall also notify the administrative official whose decision is the subject of the appeal.

The Board shall hold a public hearing for which notice has been given on any appeal within sixty-five (65) days from the date of filing such appeal. The decision of the Board shall be made within one hundred (100) days from the date of filing the appeal with the Town Clerk, unless mutually extended. Failure by the Board to act within the prescribed time shall be deemed a grant of the appeal.

D. REFERRAL TO OTHER BOARDS AND DEPARTMENTS

The Board, at its discretion, may transmit copies of said application, together with such information as the Board deems appropriate, to the Board of Health, Planning Board, Town Engineer, Police and Fire Departments, Conservation Commission, Building Commissioner and Town Council for their review and recommendation within twenty-one (21) days of the filing of the application. The Board may also transmit copies of the application to other Boards and Departments as it deems appropriate. Copies of such reviews and recommendations shall be sent to the Board of Appeals, provided however, that failure of any such Board or Department to make recommendations within thirty (30) days of receipt by such Board or Department shall be deemed a lack of opposition. These Rules and Regulations do not preclude compliance with any other local, State or Federal laws.

SECTION 10. PUBLIC HEARINGS

A. PUBLIC HEARINGS

Notice of the public hearing, pursuant to M.G.L. Ch. 40A, Section 11, shall be given by publication in a newspaper of general circulation in the Town of Braintree once in each of two successive weeks, the first publication not being less than fourteen (14) days before the day of the public hearing, and by posting such notice in a conspicuous place in the Braintree Town Hall for a period of not less than fourteen (14) days before the public hearing. Notice shall also be sent by mail, to the parties in interest (See Section 5D). In all

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cases, notification of the public hearing shall be the responsibility of the Board. The required time limits for a public hearing may be extended by written agreement between the Applicant and the Board, which agreement shall be filed in the office of the Town Clerk.

B. RULES OF PROCEDURE FOR PUBLIC HEARINGS

An Applicant, or party in interest, may appear on his or her own behalf or may be represented by an authorized agent or attorney. In the absence of an appearance on behalf of an Applicant, without cause, the Board may make a decision on the basis of available information otherwise received.

The Chair shall preside at all public hearings and meetings. The Chair may designate any regular voting member of the Board to preside as Acting Chair and perform the duties of the Chair in the Chair's absence. The Chair may likewise call for an associate member to serve as a voting member if a voting member serves as Acting Chair. The Chair, subject to these rules, shall decide all points of order or procedure. Any individual who anticipates speaking on behalf of or against the petition shall identify himself or herself for the record.

The Applicant or the Applicant's duly authorized representative shall present evidence, testimony or other information in support of the application. After the Applicant's presentation, the Board may question the Applicant, or the representative, regarding the evidence, testimony or other information presented. Counsel appearing for the Applicant and counsel appearing for those in opposition, shall have an opportunity to cross-examine any witness testifying before the Board of Appeals, but the Chair may restrict the extent of such cross-examination. Other individuals appearing before the Board may cross examine any witness only as permitted by the Board. Any persons in attendance will then be given the opportunity to speak or provide testimony. No person shall speak until recognized by the Chair, and anyone recognized by the Chair to speak must identify himself or herself for the record.

No person shall be polled unless said person is a resident of the Town of Braintree or a duly authorized representative of a resident of the Town of Braintree or the owner of land which is affected by the subject matter of the hearing.

All written communication shall be submitted into the record prior to the close of the public hearing. No further evidence, testimony or information shall be presented or entered into the record after the close of the public hearing.

C. EXECUTIVE SESSION

The Board may enter into Executive Session, for reasons specified in MGL Ch. 30A, Section 21(a), and subject to the following procedures under MGL Ch. 30A, Section 21(b):

1. The session must be convened in an open meeting and notice must be given;
2. The Chair must announce the purpose of the Executive Session;
3. The decision to enter Executive Session may be taken only on a positive roll-call vote of the members;
4. The Chair shall announce whether the meeting will reconvene in open

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- session; and
5. Votes taken in Executive Session must be by recorded roll call.

In accordance with the Open Meeting Law, the Board shall post notice of the executive session on a lawful meeting agenda in advance of the Board meeting in which the executive session shall convene.

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D. JOINT MEETINGS

The Board may, in its discretion, hold joint meetings with other public bodies or regulatory boards to facilitate the presentation of information to the boards before which an application has been filed and to obtain a wider range of perspectives on the application. Each board at the joint meeting shall be formally convened by its Chair, and the Chairs of the respective Boards shall have determined who shall preside at the joint meetings. At the conclusion of discussion, each board shall, separately, take such actions as are necessary, and each board will separately formally adjourn.

E. RECORDINGS/TRANSCRIPTS OF PUBLIC HEARINGS

Every hearing held by the Board shall be recorded (via audio and/or video). A copy of the recording will be made available upon request made in writing to the Planning and Community Development Department. A duplication fee may be required.

Meeting minutes will be prepared for each hearing and posted on the Town's website.

SECTION 11. DISPOSITION OF APPLICATION

A. FILING OF APPLICATIONS

Before a petition will be scheduled and advertised, a complete copy of the appropriate official application form, together with the filing fee and additional information and plans as required by the Board and these Rules & Regulations, shall be filed with the Planning and Community Development Department.

If the application is incomplete, or the agenda has been closed, the application may be heard at the next scheduled public meeting.

B. VOTE

The affirmative vote of the three (3) members of the three (3) member Board shall be required to authorize, issue, uphold or reverse a Variance and/or Appeal. The affirmative vote of the two (2) out of the three (3) members of the three (3) member Board shall be required to authorize, issue, uphold or reverse a Finding.

C. DECISION FOR FINDINGS, VARIANCES AND APPEALS

The Decision of the Board for Findings, Variances and Appeals shall be filed with the office of the Town Clerk within fourteen (14) days of the Decision date. The required time limits for the Decision may be mutually extended by a vote of the Board. The vote to

extend the time limits shall be filed in the office of the Town Clerk. The written Decision shall state clearly the reasons for the action, and shall include specific findings as required by M.G.L. Ch. 40A, Section 11.

D. CONTINUANCE

The Chair, at the Chair's discretion, may continue the meeting by a majority vote, to take the matter under consideration for deliberation and decision, including but not limited to scheduling a site visit by the Board. The continued meeting shall be properly noticed provided that notice of the new date, time, and place of the continued meeting and its subject matter are announced at the meeting; and further provided that the notice is posted visibly in the Town Hall and on the meeting calendar on the Town website. The Chair may also require the continued meeting to be properly re-noticed pursuant to M.G.L. c. 40A. Any continuance of a public hearing will automatically extend the time under which the Board must render and file a Decision by the number of days requested in the continuance.

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E. NOTIFICATION OF DECISION

A notice of the decision shall be made to parties in interest, abutting towns and to persons present at the public hearing requesting such notice. The Applicant will receive a copy of the full decision.

The notice shall specify that appeals, if any, shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, and shall be filed with the office of the Town Clerk within twenty (20) days after the date of the decision.

F. RECORDING AND OBTAINING PERMITS

The Applicant shall file the decision, as certified by the Town Clerk that the twenty (20) day appeal period has expired, in the Norfolk County Registry of Deeds in Dedham, MA. Evidence that the decision has been recorded in the Registry of Deeds must be provided to the Planning and Community Development Department and Building Department prior to the issuance of any Building Permit. The Applicant is responsible for obtaining all necessary permits, licenses, rights and/or releases prior to commencement of the project.

H. WITHDRAWAL OF APPLICATION

An Applicant may withdraw an application, without prejudice, by written notice to the Board at any time prior to the first publication in the local paper of the notice of the public hearing. After such public notice, withdrawal of an application, without prejudice, shall be permitted only by vote of the Board.

I. APPEALS

Any person aggrieved by the decision of the Board may appeal such decision as provided in Massachusetts General Laws Chapter 40A, Section 17, within twenty (20) days after the date the decision was filed with the office of the Town Clerk.

J. REPETITIVE APPLICATIONS

Any appeal, application or petition which has been denied by the Board, shall not be acted favorably upon within two years after the date of denial unless a minimum of four members of the Planning Board consents and the Planning Board finds by a vote of at least four members that there are specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the recording of its proceedings. The actions of the Planning Board may occur only after notice is given to parties of interest of the time and place of the meeting at which the petition will be considered.

K. LAPSE OF VARIANCE/FINDING

The rights granted by a Variance shall lapse if they are not exercised within one year of the date of the grant, as defined under M.G.L, Chapter 40A, Section 10.

When the ZBA acts as a special permit granting authority, the rights granted by a Finding shall lapse if they are not exercised within two years of the date of the grant, in accordance with M.G.L. Chapter 40A, Section 9, and Section 135-503 of the Braintree Zoning Bylaw.

L. EXTENSION OF VARIANCE

Upon written application by the grantee, the ZBA may extend the one-year time period in which to exercise the rights authorized by a Variance, provided such extension does not exceed six (6) months, in accordance with Massachusetts General Laws Chapter 40A, Section 10.

An application for such extension must be filed with the ZBA prior to the expiration of the six (6) month lapse period.

If the ZBA does not grant an extension within thirty (30) days from the date of such application, the rights authorized by the Variance will lapse upon the expiration of the original one-year period and such rights may only be reestablished after giving notice and holding a new hearing.

M. EFFECTIVE DATE OF VARIANCE/FINDING

No Variance and/or Finding shall take effect until a copy of the decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and certification either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and parcel address.

N. MODIFICATION, AMENDMENT OR RENEWAL OF PERMIT

The Board shall have the authority to modify, amend or renew its approval of a Variance

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and/or Finding in accordance with applicable law. Submission requirements for requests to amend Findings/Variations are the same as for an original Finding/Variance application.

O. PERMIT EXTENSION ACT

Chapter 238 of the Acts of 2024, enacted on November 20, 2024, provides in relevant part that an approval in effect or existence during the period from January 1, 2023, to January 1, 2025, shall be extended for a period of two years from the approval's expiration date. That extension is automatic and does not require Board action to ratify the extension.

SECTION 12. SEVERABILITY OF PROVISIONS

If any section or provision of these Rules and Regulations is held invalid, it shall not invalidate any other section or provision hereof. If the application of any section or provision of these Rules and Regulations to any person or circumstances is held invalid, it shall not invalidate the application of these Rules and Regulations to other persons and circumstances hereof.

SECTION 13. WAIVER OF FULL COMPLIANCE

Full compliance with these Rules and Regulations may be waived by the Board provided such waivers are deemed to serve the public interest and do not conflict with Chapter 40A of the Massachusetts General Laws or the provisions of the Town of Braintree Zoning Bylaw.

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TOWN OF BRAINTREE



RULES AND REGULATIONS of the BRAINTREE ZONING BOARD OF APPEALS

The Braintree ZBA, in accordance with M.G.L. Chapter 40A, Section 12, hereby adopts the aforementioned Rules and Regulations governing the organization and conduct of the Board and also governing review and action on Appeals, Finding and Variance applications.

No procedure set forth within these Rules and Regulations should be construed to limit the Board's powers and rights under law. The procedural rules detailed in this document are presented to provide the Board and other interested parties clarification on how the Board conducts its business.

BOARD of APPEALS

Rayna Rubin, Chair

Jose Perez, Vice-Chair

Angela Cavanaugh, Clerk

Tom Kleber, Associate

Vacant, Associate

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