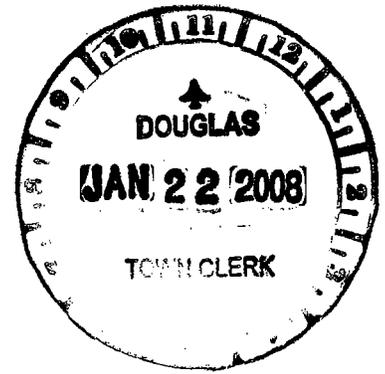




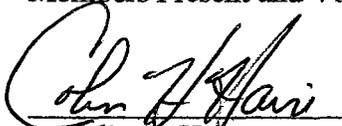
Town of Douglas
Zoning Board of Appeals
29 Depot Street ~ Douglas, MA 01516
508-476-4000 ~ Fax: 508-476-4012
TTY: 508-476-1619



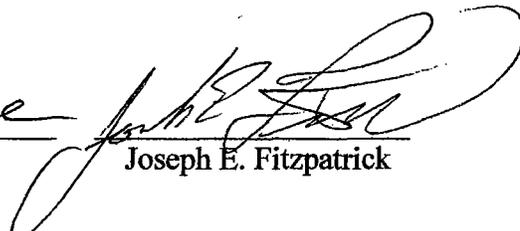
At a duly held public hearing on January 10, 2008, the Zoning Board of Appeals voted unanimously to adopt the following amendment to Section III of the "Rules and Regulations":

"N. Notwithstanding the foregoing, the Board shall normally hold a public hearing and render and file a decision on any special permit application submitted to it in connection with the development of the Priority Development Sites (PDS), as designated by Town Meeting pursuant to MGL c. 43D, within 150 days following receipt of a complete application."

Members Present and Voting:


Colin H. Haire


Harold Davis


Joseph E. Fitzpatrick

Douglas is an Equal Opportunity Employer



Town of Douglas

Zoning Board of Appeals

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REGULATIONS GOVERNING FEES AND FEE SCHEDULES

1.0 INTRODUCTION

1.1 Procedural History

At a duly called meeting, on January 10, 2008, the Zoning Board considered the proposed regulations governing fees pursuant to MGL c 40A, § 12. At the close of the meeting, the Zoning Board voted to adopt regulations governing fees and to implement a new schedule of fees for the administration and review of submittals as conducted by the Zoning Board, staff and its consultants. This document, subject to revision from time to time in a manner spelled out herein, constitutes the Zoning Board's rules governing the imposition of fees and its current fee schedules.

1.2 Purpose

These regulations and fee schedules have been adopted to produce a more equitable schedule of fees which more accurately reflects the costs of technical and legal review of applications made to the Zoning Board; to take advantage of the procedures offered by MGL c. 44, § 53E ½ and MGL c. 44, § 53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Zoning Board.

2.0 FEE STRUCTURE AND REGULATIONS

2.1 General

The Zoning Board shall impose reasonable fees for the review of applications that come before it. The Zoning Board may impose Administrative Fees and Project Review and Inspection Fees as may be applicable to the types of applications set forth below.

3.0 ADMINISTRATIVE FEES

3.1 Applicability

An administrative fee shall be assessed, as set forth in Section 3.3 herein, to all permit applications made to the Zoning Board in order to offset the expense associated with processing the application as required by statute and/or local bylaws.

3.2 Submittal

Administrative fees shall be paid at the time of the application submittal. Any application filed without this fee shall be deemed to be incomplete and application processing and review shall not commence until the required fee has been paid in full.

3.3 Schedule of Administrative Fees

The following schedule applies to applications made to the Zoning Board as set forth below. This schedule supersedes all previous schedules as they may have appeared in the Douglas Zoning Bylaws, and any listings that may have been compiled from time to time for the benefit of applicants.

3.3.1 All Applications

A \$250.00 fee.

3.4 Fee Waivers

The Zoning Board may waive or reduce any Administrative Fee if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the Applicant.

3.5 Refund

Once the review process has been commenced, the Zoning Board shall not refund Administrative Fees, including the case of withdrawal of the application by the Applicant.

4.0 PROJECT REVIEW AND INSPECTION FEES

4.1 Applicability

In addition to an administrative fee, a project review and inspection (R&I) fee shall be assessed as set forth in Section 4.3 herein. This R&I fee shall accompany all permit applications made to the Zoning Board in order to defray the expense associated with technical review of the submittal.

There shall be two types of Project Review and Inspection Fees:

- (a) professional staff R&I fees and;
- (b) independent consultant project R&I fees

These fees shall be administered and accounted for in accordance with the requirements of MGL c. 44 §53E ½, and/or MGL c 44 §53G, respectively.

4.1.1 Professional Staff R&I Fees (MGL c. 44 §53E ½)

Generally, the Zoning Board shall make every effort to utilize this account for project and submittal review. However, at

times the scope and magnitude of a submittal, or the staff workload may require utilizing outside professionals, as detailed in 4.1.2 below. This type of account is established under MGL c. 44 §53E 1/2.

4.1.2 Independent Consultant Project R&I Fees (MGL c. 44 §53G)

In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation. The process for compensation and acquiring an outside professional shall be as stipulated in MGL c. 44 §53G.

4.2 Submittal

Project Review Fees shall be determined and paid at the time of the submittal of the application for deposit in an account established pursuant to MGL c. 44 §53G ("53G Account") and/or MGL c. 44 §53E 1/2 ("53E 1/2 Account") as determined appropriate by the Zoning Board. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

4.3 Schedule of Project Review Fees

The following schedule applies to the types of applications to the Zoning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Town of Douglas Zoning By-law or any listings which may have been compiled from time to time for the benefit of applicants. These fees should not be construed as the final costs, true cost will be determined on an hourly basis.

4.4 Special Permits

4.4.1 Site Plan Review: \$500 per acre of impervious area created, or fraction thereof.

4.4.2 Other Special Permits not listed herein do not have an established fee structure for review and inspection, however, the Zoning Board may request that a fee be posted by the Applicant, if warranted.

4.5 Replenishment

When the balance in an Applicant's R&I Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the account shall be replenished to its initial project review value to cover the cost of the remaining project review fees.

4.6 Inspection Phase

After the granting of a Special Permit, the Zoning Board may require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

4.7 Handling of Project Review Fees

The Project Review Fee is to be deposited into a special account as set forth in MGL ch.44 §53G or MGL c. 44 §53E ½ as appropriate.

4.7.1 Project Review Fees shall be submitted to the Town Treasurer for deposit into the R&I Account(s).

4.7.2 A copy of the latest statement from the banking institution handling the R&I Account(s) shall be forwarded from the office of the Town Treasurer to the Zoning Board office as soon as it is received for timely and accurate accounting.

4.7.3 The Town Accountant shall prepare a report on activity in the R&I Account(s) on an annual basis.

4.7.3.1 This report shall be submitted to the Selectmen and Zoning Board for their review.

4.7.3.2 This report shall be printed in the Annual Report for the Town of Douglas.

4.7.4 An accounting of an Applicant's funds held in the R&I Account(s) may be requested by the Applicant at any time.

4.7.4.1 The Zoning Board shall respond to the request in a timely fashion.

4.7.4.2 This accounting shall include the following information:

4.7.4.2.1 The latest statement from the banking institution handling the account, which should include any accumulated interest portion to the closing date of the

statement if such statements are subdivided into individual applicant's accounts. Otherwise, a statement of principal and interest, prepared by the Zoning Board office, based on the latest statement from the banking institution. Please note that interest accrued under a 53E 1/2 Account is not returned to the Applicant, but is submitted to the general fund annually in accordance with the statute.

4.7.4.2.2 A report of all checks authorized for issuance since the last banking statement.

4.7.5 An Applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.

4.7.6 Fees in the 53G Account shall be returned to the Applicant or the Applicant's successor in interest, at the conclusion of the R&I process, as defined below. For the purpose of this section, any person or entity claiming to be an Applicant's successor in interest shall provide the Board with documentation establishing such succession interest.

4.7.6.1 With the disapproval of an application or petition.

4.7.6.2 With the final inspection or the approval or disapproval on all other types of applications, whichever comes later.

4.7.7 Appeal

The choice of a consultant selected by the Zoning Board for the review of an application may be appealed in writing to the Board of Selectman by the applicant, providing such appeal is initiated within two weeks of the initial selection.

4.7.7.1 The Selectmen shall convene a formal hearing within twenty days of receiving a written appeal by an applicant.

4.7.7.2 Two circumstances may disqualify the selected consultant. These following two conditions constitute the *only* grounds for an appeal:

DOUGLAS ZONING BOARD OF APPEALS
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Adopted by unanimous vote: January 10, 2008

4.7.7.2.1 Conflict of interest: A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process. Consultants must be in compliance with the Massachusetts Conflict of Interest Law, G.L. c. 268A.

4.7.7.2.2 Lack of appropriate qualifications: A consultant shall possess the minimum required qualifications. The minimum qualifications shall consist of either 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.

4.7.7.3 The required time limits for action upon an application by the Zoning Board shall be extended by duration of the appeal.

4.7.7.4 If no decision is rendered by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Zoning Board shall stand.

4.7.7.5 This appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in this section.

5.0 DELINQUENT ACCOUNTS.

The following rules apply to R&I fees owed to the Zoning Board by the applicants:

5.1 Monthly Interest Charge.

All fees past due by one month from the date of invoice shall be subject to a monthly interest charge based upon an annual interest rate of 14%.

5.2 Costs of Collection.

All costs of collection associated with past due accounts shall be borne by the applicant.

5.3 Current Delinquents.

All applicants owing fees to the Zoning Board at the time of any amendment to these provisions or the adoption of these provisions of the regulations shall be sent the following:

5.3.1 A duplicate notice of the amount past due.

5.3.2 A copy of the applicable sections of these regulations with all amendments clearly indicated.

5.3.3 Notice of a 30 day grace period before the commencement of any changes in interest rates or charges.

**6.0 REVISION OF FEE SCHEDULE &
REGULATIONS GOVERNING FEES**

6.1 Amendment

The Zoning Board may review and revise its regulations and fee schedules, from time to time, in the following manner:

6.1.1 Amendments shall be preceded by a duly held meeting of the Zoning Board of Appeals.

6.1.2 Any new regulations or alterations to the fee schedule shall take affect upon filing a copy of the amendments with the Douglas Town Clerk.