

ARTICLE 11 PLANNING BOARD

Section 11.01 General - In addition to the duties conferred to the Planning Board by the Town of Waterboro acting pursuant to MRSA tit. 30 ss4961-4963 or the Home Rule Powers (see Section 1.01), the provisions of this ordinance impose responsibilities on the Board which are essential to the effective implementation and carrying out of the intent and purpose of the ordinance. These include:

- reviewing and deciding with the Selectmen whether to permit or not allow uses presently not permitted by this ordinance but which are similar in character to uses which are permitted, see Section 207;
- reviewing and deciding whether to permit or not allow a temporary use and if allowed the extent, scope, and conditions (if any) of the temporary use, see Section 2.07;
- reviewing applications for building permits from owners of substandard sized lots to determine what (if any) conditions need to be attached to protect adjacent property owners and public interest, see Section 2.08;
- reviewing and ultimately approving or disapproving applications to commence a conditional use, see Article 4.
- reviewing parking space requirements and parking and loading area design plans, particularly the design of road and driveway intersections in drive-in commercial enterprises and large vehicle loading and parking areas to determine if special safety features are necessary, see Sections 5.03 and 5.04;
- reviewing and ultimately approving or disapproving proposed departures from the height requirements of this ordinance necessitated by the unique or special characteristics of the structure, see Section 8.01;
- reviewing and ultimately approving or disapproving applications to undertake a planned unit development or cluster development, see Sections 8.02 and 8.03;
- reviewing and forwarding a recommendation to the Selectmen as to whether common space and open area which a developer contemplates dedicating to the town as part of a PUD or cluster development proposal should be accepted, see Subsection 8.02.03 and Section 8.03;
- conducting a joint PUD or cluster development and subdivision review, see Subsection 8.02.04 and Section 8.03;
- participation in hearings held pursuant to requests for a variance, see Section 10.05;
- making recommendations with respect to the issuance of enforcement orders by the Selectmen, see Section 12.03;

- reviewing and ultimately deciding whether particular developers will be required to post performance bonds to insure compliance with the provisions of this ordinance and the plans, specifications, or conditions upon which required approvals and permits were sought and obtained, see Section 12.04;
- commenting and offering recommendations at the hearing which would be required if repeal of this ordinance was sought, see Section 13.05;
- conducting hearings in additions to those which are specifically required to facilitate carrying out any of the above responsibilities, see Sections 11.02 and 13.07;
- reviewing and ultimately approving or disapproving applications for site plan review, see the Town of Waterboro Site Plan Review Ordinance. (Amended 4/27/02)

Finally the Planning Board shall be required no less frequently than every three (3) years to review this ordinance in light of new data and changing conditions within and outside of the town and to propose those amendments or refinements pursuant to the provisions of section 13.04 which will enable this ordinance to continue to be an effective device for carrying out the Town's Comprehensive Plan and the stated intent and purpose of the ordinance (see Sec. 1.02 & 1.03).

Section 11.02 Hearings - The Planning Board may hold a hearing, in addition to those specifically required by provisions of this ordinance, to facilitate carrying out any of its responsibilities as outlined in Section 11.01. In the calling and conduct of such hearings the Board shall follow the procedures set forth in Section 13.07. The Board also adopt rules which will assure fair and orderly procedures at such hearings.

Section 11.03 Findings and Decisions - All decisions of the Planning Board must be predicated on testimony received by the Board at hearings, planning data which it has gathered and which is available to the public, other facts, data, or information which are a matter of public record and information obtained from the applicant. When taking any final action the Board must issue a statement of its findings and conclusions which sets forth the reasons for and the rationale underlying the particular Board action. Board actions which are generally favorable to an applicant must specifically indicate that all of the requirements of state statute and this ordinance have been met. Board actions which are unfavorable to an applicant must specifically indicate how and in what way the applicant failed to comply with the requirements of state statute or this ordinance. When conditions are attached to any Board approval the factors establishing the need for and justifying the condition as framed must be indicated. A copy of all final board actions (decisions) shall be mailed or hand delivered to the party who requested the Board actions, the Code Enforcement Officer, and the Selectmen within seven (7) days. A copy which will provide notice to the public shall also be placed on file and be available for inspection in the Municipal Clerk's office.

Section 11.04 Review - Before judicial review may be sought pursuant to the provisions of Section 13.08, any decision, final action or failure to act of the Planning Board, including

decisions which are to be made jointly by the Planning Board and the Selectmen (see Section 2.05), must be appealed within thirty (30) days to the Zoning Board of Appeals of the Town of Waterboro by the applicant or an aggrieved party. The Zoning Board of Appeals may affirm the Planning Board, remand the issue with instructions which it had taken, or the Zoning Board of Appeals may modify Planning Board actions for reasons which must be set forth. (Amended 4/26/03)