






TOWN OF HARDWICK

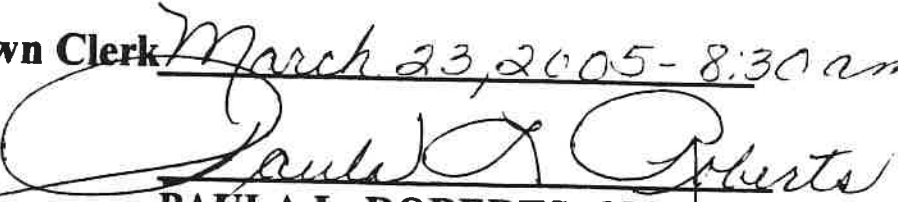
ZONING BOARD OF APPEALS

THESE RULES & REGULATIONS HAVE BEEN REVISED & ADOPTED BY THE HARDWICK ZONING BOARD OF APPEALS, IN COMPLIANCE WITH MGL, CHAPTER 40A, SECTION 8, 12, 15 AND CHAPTER 40B AND SUPERCEDE THOSE DATED SEPTEMBER 3, 1981

ZONING BOARD OF APPEALS

March 22, 2005
Date of Adoption

Date of Filing with Town Clerk March 23, 2005 - 8:30 am

PAULA L. ROBERTS, CMC
TOWN CLERK

ARTICLE 1

ORGANIZATION

1.1 ADOPTION AND REPEAL

These rules and regulations are established pursuant to MGL, Chapter 40A, s.8, 12, 15, and Chapter 40B, s.21. These rules and regulations, appendix of approved forms and fee schedule, were approved by vote of the Hardwick Zoning Board of Appeals at a public meeting and shall supercede all previous regulations of the Board of Appeals, which are hereby repealed.

1.2 INTERPRETATION

These rules and regulations shall be interpreted and applied so as to implement the requirements of MGL, C 40A and 40B, and the Hardwick Zoning By-laws, the latter shall govern.

1.3 POWERS AND DUTIES

The Board of Appeals ("Board") shall have the power to hear and decide the following categories of appeals and applications and petitions:

A. VARIANCES - Petitions for Variance from provisions of the Zoning By-law, pursuant to MGL, C. 40A, Section 10;

B. ADMINISTRATIVE APPEALS - Appeals by any person aggrieved by reason of his ability to obtain a permit or enforcement action from any applicable zoning officer or building official pursuant to MGL, C. 40A.. S. 8, 12, 15.

C. COMPREHENSIVE PERMITS - Comprehensive Permits pursuant to MGL, C. 40B. *Affordable Housing Developments 20/252*

1.4 MEMBERSHIP AND OFFICERS

The Board shall consist of five members and two associate members (also sometimes referred to herein as "regular members" and "alternate members").

All members are appointed by the Board of Selectmen.

1.5 ELECTION OF OFFICERS

At the first meeting after the annual appointment of members by the Board of Selectmen, the Board shall elect, by a majority vote, a Chairman, Vice Chairman, and Clerk who shall serve until the remainder of the year or until a successor is elected. Associate members shall not participate in the vote unless designated to sit and vote thereon in the absence of a regular member.

1.6 CHAIRMAN - POWERS AND DUTIES

The Chairman shall vote and be recorded on all matters before the Board. The Chairman shall call and preside over all meeting and other official business of the Board as required, including but not limited to the power and duty to:

- A. Sign all communications, correspondence and decisions of the Board;
- B. Endorse all purchase orders, vouchers, expense authorizations as required;
- C. Supervise the performance of duties by other officers and members;
- D. Communicate with applicants, appellants or petitioners, their agents or attorneys in connection with any matter pending before the Board;
- E. Request opinions and advice from Town Counsel;
- F. Appoint Associate Members to act upon Board matters in the absence or due to inability or due to conflict to act as a regular member.
- G. To request the production of testimonial or documentary evidence which the Board deems relevant to any matter pending before it; and in furtherance thereof, to issues subpoenas in accordance with the provisions of the Zoning Act.

1.7 VICE CHAIRMAN - POWERS AND DUTIES

In the event of the Chairmans' absence or inability to perform his duties the Vice Chairman shall assume the powers and duties of the Chairman.

1.8 CLERK - POWERS AND DUTIES

The Clerk shall have such duties as the Chairman shall designate including the supervision of all clerical functions of the Board, preparation of dockets, agendas, postings, minutes of Board Meetings and Hearings, Decisions, Notices of Decisions of the Board, reports and other communications and records. The Board may hire a clerical secretary to assist the Chairman and Clerk in the performance of their duties.

1.9 ASSOCIATE MEMBERS (2)

Associates Members shall attend all meeting and hearing of the Board, and shall perform the duties of a regular member when so designated by the Chairman.

MEETINGS

1.10 QUORUM

A quorum for any meeting or hearing of the Board shall consist of at least four members. In the event that fewer than four members are present and qualified to vote at the commencement of any meeting or hearing, the Chairman shall adjourn until such times as a quorum shall be present.

1.11 MANNER OF CONVENING

Meetings shall be held at a time and place to be designated by the Chairman, shall be posted and conducted in accordance the Open Meeting Law, and shall not be held on Sundays, legal holidays or days on which state or municipal elections, caucuses, primaries or town meetings are held. View of property, which the Board desires to take, may be conducted at the convenience of the Board and shall not be

Deemed to be meetings.

1.12 VOTES

The vote of each member designated to sit on any matter shall be recorded by the Clerk. No member shall vote on a matter, which is required by law to be decided after public hearing, unless the member attended all sessions of the public hearing.

ARTICLE 2

APPLICATIONS, PETITIONS AND APPEALS AND COMPREHENSIVE PERMITS

2.1 FORMS

All applications, petitions, appeals and Comprehensive Permits to the Board shall be made on a form approved by the Board. (See Appendix of forms). Any communication purporting to be an application may be deemed to be incomplete and treated as a mere notice of intention to seek relief, until such time as it is submitted on the approved form, and is accompanied by all required fees, lists and other information required by these rules. The Board reserves the right to reject any application that is deemed to be incomplete. The fact an application is discussed at a scheduled meeting shall not be deemed to be acceptance of an application.

2.2 MANNER OF FILING

The original of all application forms as are hereinafter specified for each particular type of relief sought, including site plans, required attachments, briefs to the Board, and other documents attached to the application, if any, shall be filed in the office of the Town Clerk by hand-delivery or by mail, along with eight copies of the complete application package (15 copies for a comprehensive permit), which shall be filed with the Town Clerk. The Town Clerk shall date and time stamp each copy and forthwith deliver the application to the Board. The required filing fee shall be included as a part of the original document. The filing fee shall be made payable to the Town of Hardwick and shall be in the amount specified in the schedule of fees approved by the Board (see Appendix - Fee Schedule).

2.3. CERTIFIED LIST OF PARTIES IN INTEREST

A list of parties in interest shall be attached to the original application, petition or appeal. Said list shall include the name and address of the petitioner, owner of the land affected if the petitioner is not the owner, abutters, owners or land directly opposite on any public or private way or street, and abutters to abutters whose property is located within three hundred (300) feet of the property line of the land which is the subject of an application or appeal. The names and addresses of owners shall be determined by reference to the most recent applicable tax list, including owners in adjoining towns. The list of parties shall also include the Planning Boards of all the abutting town to Hardwick.

The list shall be certified by the Hardwick Board of Assessors.

2.4 FILING PERIOD

Any administrative appeal must be filed with the Town Clerk within thirty (30) days of the date of the order or decision being appealed from, specifying the grounds for appeal and containing a copy of the order or decision appealed from.

2.5 FINDINGS OF FACT

Each application, petition or appeal may be supplemented by, or consolidated with, a BRIEF TO THE BOARD containing any relevant arguments, facts legal issues, or reference to exhibits or other evidence which the applicant, appellant or petitioner, or other party in interest wishes the Board to consider.

All parties in interest should carefully consult the Zoning By-Law, the Zoning Act and other pertinent laws or regulations as to the facts necessary and legal criteria required by the Board to render its decision and, where appropriate, seek assistance from counsel or other consultants.

2.6 SITE PLAN

Each application, petition or appeal which seeks a permit for new construction shall be accompanied by a site plan of at least 8.5"X11", drawn to scale, containing at a minimum the following information: property lines and boundaries, name and address of record owner, name and location of adjacent streets, north arrow and scale, zoning district and any zone lines in the vicinity, existing and proposed buildings or additions including number of stories and height of all structures, paved areas, existing and proposed parking or loading spaces, utility lines, water lines, sewer lines, septic systems, wells, locations of structures on adjoining property, lot area and dimensions, including setbacks where new construction or additions are proposed, and any other information as required by the Zoning By-Laws unique to the type of relief sought (e.g. variances, uses requiring site plan review, comprehensive permits may require additional plans and date.) This document shall be signed and stamped by a certified engineer or land surveyor.

2.7 CONSULTANT - REVIEW FEES (Adopted March 19, 2005)

When reviewing an application for a variance, petition, appeal or Comprehensive Permit the Board may determine that the assistance of outside consultants is warranted due to the size, scale, or complexity of a proposed project or because of the project's potential impacts. Such outside consultants may include engineers, planners, traffic consultants, lawyers, or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, by-laws, and regulations, and so that the Board may take the findings required under the Zoning By-law and Zoning Act, and ensure that the public good and safety will be protected.

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

Whenever possible, the Board shall work cooperatively with the applicant to identify appropriate consultants and to obtain applicant's agreement to reimburse the fees and expenses of the consultant. In order to ensure that adequate funds will be available to cover the cost of the reviews that the Board deems necessary, the Board may require the applicant to provide a review fee deposit at the time of submission or at any appropriate time in the review process. Some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review.

All written results and reports of outside consultants shall be made part of the record of the Board's proceedings.

In imposing review fees, the Board shall comply with the provisions of MGL, Chapter 30B, ss. 1-19. Any invitation for bids or request for proposals shall indicate that award of the contract is contingent upon payment of the review fee. If the applicant fails to either pay the review fee or appeal the selection of a consultant in writing within ten days of receiving written notification of selection of a consultant, the Board may deny the permit being applied for.

An applicant may appeal the selection of an outside review consultant to the Board of Selectmen. The grounds for such an administrative appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications (i.e. 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.)

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 Board of Selectmen within thirty (30) days from filing an administrative appeal, the administrative appeal shall be deemed to be denied. Failure to pay the review fee within five (5) days after the appeal has been denied by the Selectmen's decision or inaction shall result in denial of the requested permit.

Review fees shall be deposited into a special account established by the Town pursuant to MGL, C. 44, s. 53G, and shall be expended only for the purposes described above. Any unused excess in the account, plus accrued interest, shall be returned to the applicant within thirty (30) days of completion of the project or written withdrawal of the proposal or application.

2.8 AMENDMENTS TO APPLICATIONS, PETITIONS, APPEALS

The Board shall vote only upon the specific application, petition, or appeal which is the subject of the relief contained in the documents as filed and described in the notice of the public hearing. Any proposed modifications or amendments must be presented at a public meeting or hearing on the matter. The board shall determine whether the proposed amendments are reasonable within the scope of the original application and if determined to exceed the scope of the public notice, shall require that the applicant request an extension of time to permit a new notice to parties of interest to be mailed, published and posted at the applicants expense. Normally, modifications or amendments to plans or proposed uses or structures which constitute a decrease in degree or extent of a use or proposed construction shall not require a new notice. Nothing herein shall be deemed to prohibit a board from imposing conditions upon the grant of a permit, application, petition or appeal, which may require alterations or amendments to plans.

2.9 WAIVER OF RULES AND REGULATIONS

The board may, in its sole discretion, waive strict compliance with any provisions of these Rules and Regulations Where such waiver is consistent with public interest and the proper performance of its duties, except in such cases where the requirements sought to be waived are required by either a statute of the Zoning By-law.

2.10 BOARD REQUEST FOR INFORMATION

The Board may request further information, studies, plans, or other evidence which it deems reasonably necessary in order to properly decide the matter pending before it. In cases where the Board is required to render a decision within specific time limits it may also require extensions of the time period within which it must render and file its decision upon the matter. Failure to furnish such information such as is reasonable requested by the board in a timely fashion may constitute grounds for denial of the relief sought.

ARTICLE 3

HEARINGS

3.1 NOTICE

Notice of the Public Hearing shall be published in a newspaper of general circulation in Hardwick once a week for two consecutive weeks. The first publication shall not be less than fourteen days before the day of the hearing. In addition, a copy of the notice shall be posted in a conspicuous place in the Municipal Building for a period of not less than fourteen days before the day of the hearing. A copy of the notice shall also be sent by mail, postage prepaid, at least fourteen days before the hearing to all parties of interest.

The public hearing notice shall contain the name of the applicant, appellant or petitioner; a description of the land affected with street addresses or other means of identification of the property affected; the date, time and place of the public hearing, the subject matter of the hearing, and the nature of the permit or relief requested.

3.2. HEARINGS OPEN TO PUBLIC

All hearings shall be open to the public. No person shall be excluded unless he or she is deemed to constitute a hindrance to the proper performance of the duties of the Board.

3.3. REPRESENTATION

An applicant may appear personally and/or with representation by a duly authorized attorney or agent. In the event of the unexcused absence of the applicant or his representative at any hearing upon the matter, the Board may issue a decision upon the matter based upon all information submitted and available to it.

3.4. ORDER OF BUSINESS AND CONDUCT OF HEARING

A. the Chairman shall call the hearing to order and read the notice of hearing as published.

B. the Chairman may request interested parties to register their attendance on a log or attendance sheet.

C. The applicant, appellant or petitioner shall present its case to the Board, including the submission of documentary evidence, oral evidence or other matters which it desires the Board to consider, including exhibits, documents, charts, plans, models, displays, video or photographic presentations, etc. Normally, the proponent will be allowed to complete its presentation before the Board will entertain public comment or evidence from other parties. The Chairman may alter the order of presentation where the interests of clarity or circumstances warrant.

D. Members of the Board may direct appropriate questions to any party, witness or speaker during the hearing.

E. Representatives of any department, board or agency of the Town shall be afforded an opportunity to be heard.

F. Parties in interest shall be afforded an opportunity to be heard.

G. The proponent may rebut matters raised by any opponent.

H. the Chairman shall have the right to limit the length of oral presentations, to limit or exclude repetitive or immaterial argument or evidence and shall require that any questions addressed to the proponent be directed through the Chairman.

I. All exhibits submitted for consideration shall be retained by the Board and may be appropriately marked or numbered.

J. Board members may request additional information and the Board may, by majority vote, continue a hearing to a date certain to enable a proponent or party in interest to present further evidence.

K. In the event of adjournment of any session of a public hearing to a date and time announced at the time of adjournment, no further notice other than posting of the meeting pursuant to the Open Meeting Law, shall be required.

L. The length of each session shall be determined by the Chairman.

M. Upon the conclusion of the presentation of evidence and argument by the applicant and other interested parties the hearing shall be declared closed. The Board shall publicly deliberate and render a decision by vote at a public meeting on or before the deadline for such decision as required by law. If requested the Chairman shall announce the date by which its decision must be rendered and filed with the Town Clerk.

N. During deliberations the Board may request additional information or clarification of evidence from interested parties or town officials, including opinions from Town Counsel.

O. the Board may individually or collectively conduct any view or inspection of the premises, which it deems necessary or desirable prior to rendering its decision. Views shall be conducted in the presence of or upon agreement of the property owner if presence on privately owned property is required for conduct of the view.

3.5. WITHDRAWAL

Any appeal, application or petition may be withdrawn without prejudice at any time prior to the publication and mailing of notice of the hearing. Thereafter, the Board may, by

majority vote, upon the proponent's request, grant leave to withdraw without prejudice at any time prior to a final, unfavorable decision upon the matter.

ARTICLE 4

DISPOSITION BY THE BOARD

4.1 VOTING REQUIREMENTS

The concurring vote of at least four members of the board shall be necessary in any action taken by the board to approve or grant a variance in the application of the bylaws; or to reverse an order or decision of the building inspector/zoning enforcement officer. The concurring vote of a simple majority of the members of the Board is necessary to grant a comprehensive permit under MGL, C40B, administrative matters, votes to reconsider, votes to adjourn, and votes to continue hearings.

The time limits for the Board's decisions shall be in accordance with state and local law. If matters are continued, the Board shall ask the applicant to sign a form extending the time limits.

4.2 RECONSIDERATION

Once a matter has been voted upon and the meeting adjourned, there shall be no reconsideration of a decision of the Board except in accordance with MGL, C.40A, s.16.

4.3 AMENDMENT OF FINDINGS AND DECISIONS

The Board may clarify any order or decision or amend a decision by adding supplementary findings and statements of reasons, provided that such action is approved by a majority vote of the Board at public meeting and such supplementary matters are filed with the Town Clerk.

4.4 EFFECTIVE DATE-

Decisions of the Board upon any application, petition or appeal shall not take effect until the Board's written decision is filed with the Town Clerk and the time for appeals has expired. Construction of structures or uses of property pursuant to applications, petitions and appeals may not lawfully commence until the Board's written decision, together with any plans referred to therein, containing the Town Clerk certification that no appeals have been filed and that the decision is final, is recorded (See Section 4.9 below).

Decisions of the Board upon Comprehensive Permits shall be final when rendered by vote of the Board.

4.5. NOTICE OF DECISION

In all cases decided under the provisions of the Zoning Act and the Zoning By-law, a written notice of decision shall be mailed to the applicant, petitioner or appellant; to the parties in interest; and to persons present at the hearing who request a copy and provide the Board with their address.

Notices of decision shall specify that appeals, if any shall be made pursuant to MGL, C.40A, s.17 and notice of such appeal shall be filed with the Town Clerk within twenty (20) days following the filing of the Board's decision.

4.6 WRITTEN DECISION

Decisions of the board shall be in writing and signed by the Chairman and/or the Clerk. A copy of the decision and any plans referred to therein shall be filed with the Town Clerk. A copy shall be provided to the owner and applicant. The written decision shall contain the following:

- A. Case number;
- B. Date decision rendered;
- C. Name and address of applicant and owner of land;
- D. Time, date and place of public hearing;
- E. Dates and manner of notice;
- F. Statement that parties in interest were notified;
- G. Statement that decision and plans have been filed with Town Clerk;
- H. Summarized account of hearing;
- I. Identification of land affected;
- J. Reasons for decision and factors establishing compliance with statutory and/or zoning by-law requirements;
- K. Recitation of any conditions imposed upon permit

4.7. DETAILED RECORD

The Board shall make a detailed record of its proceedings and file a copy of the record in the office of the Town Clerk within fourteen days (14) after the date of the decision.

4.8. TOWN CLERK CERTIFICATION

Upon the expiration of 20 days following filing of the decision, applicant shall request the Town Clerk to certify on a copy of the decision that no appeal has been filed and that the decision is final. In the event that appeal is filed, and upon certification by the clerk of the applicable court that any appeal has been dismissed or denied, the Town Clerk will issue a certificate that the decision is final.

4.9. RECORDING

Decisions shall not take effect until a certified copy has been obtained from the Town Clerk and has been recorded in the applicable Registry of Deeds and is indexed in the grantor index under the name of the owner of record or noted on the owner's certificate of title.

4.10. DURATION AND LAPSE OF PERMITS

Variances shall lapse unless rights granted thereunder are exercised and, in the case of permits for construction, unless construction commences within certain defined time limits as set forth in the Zoning By-law, the Zoning Act and the State Building Code. Variances must be exercised within one (1) year.

4.11. EXTENSIONS AND RENEWAL OF VARIANCES

VARIANCE EXTENSION/RENEWAL. Variances may be extended for one, six-month period, if the petitioner files a written request for extension with the Board in compliance with G.L. c. 40A, s. 10. Such requests must be filed at least 30 days prior to the lapse date, and may be acted upon by the Board without a public hearing. If rights granted under a variance expire due to failure to exercise such rights or failure to extend for six months, then variances shall be null and void unless renewed by the filing of a new petition in conformity with all requirements for new petitions. The fact that a variance has been previously granted shall not entitle a petitioner to any renewal.

ARTICLE 5

COMPREHENSIVE PERMITS

5.1 PURPOSE AND AUTHORITY

The rules contained in this Article govern procedures to be followed in connection with applications for the grant of "comprehensive permits" governed by MGL, C.40B, ss.20-23. These rules shall be implemented in conformity with the regulations of the Housing Appeals Committee (760 CMR 30.00 and 31.00), and with the Guidelines for Local Review of Comprehensive Permits, published by the Executive Office of Communities and Development/

5.2 LOCAL OFFICIAL DEFINED

When used herein the term "Local Official" means the Housing Partnership, Planning Board, Board of Health, Board of Selectmen, Conservation Commission, Sewer District Commissioners, Water District Commissioners, Highway Superintendent, Historical Commission, Fire Department, Police Department, School Committee, Building Inspector or other local official or board.

5.3 APPLICATION

Application for a comprehensive permit, shall be made on a form approved by the Board, and shall be filed, together with fifteen (15) additional copies of the application with the Town Clerk, together with the applicable filing fee, and certified abutter list as set forth in Article 2. The application and each copy shall have annexed thereto the following plans, reports and information, which shall be arranged in sections in order herein specified:

A. Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, dimensions and materials specifications for street, drives, parking areas, walks and paved areas; proposed landscaping improvements, open space and recreational areas proposed; locations of septic systems, wells, and appurtenant structures; zoning districts and boundaries; wetlands and waterbodies, including intermittent creeks, streams and drainage swales, and detention areas.

B. A report describing existing site conditions as well as report of existing site conditions in the surrounding areas containing as a minimum:

- location of existing buildings and utilities;
- traffic patterns and character of open areas;
- topographical features both existing and proposed;
- existence and location of any existing features of historical or archaeological significance;

C. Preliminary architectural drawings, drawn to scale, signed by a registered architect, containing at least the following information as to each proposed building:

- typical floor plans;
- typical elevations and sections;
- construction type;
- exterior finish.

(The matters required in paragraphs A and B may be combined in any plans submitted provided that existing and proposed conditions are clearly distinguished. All plans proposing five (5) or more housing units shall be prepared on plans, which are stamped by a registered professional engineer and/or architect.)

D. A tabulation of proposed buildings by type, size, number of bedrooms, floor area and ground coverage, percentage of lot coverage by structures and paved/parking areas, and percentage of unoccupied open space.

E. If the land is proposed to be subdivided, a preliminary plan of subdivision shall be submitted in conformity with the requirements of the Rules and Regulations of the Hardwick Planning Board as to the contents thereof.

F. A utilities plan showing the proposed location and types of sewerage treatment facilities proposed, services for domestic water supply and fire protection water supply (including location of hydrants), ventilation, lighting, proposed structures and facilities for surface drainage and stormwater runoff, septic systems and wells.

G. Documents evidencing that the applicant meets the jurisdictional requirements of 760 CMR 3 1.01 sufficient to establish:

- i) that applicant is a public agency, a non-profit organization or a limited dividend organization;
- ii) that the project is eligible for funding under a low and moderate income housing program ("site approval letter from a qualifying subsidizing agency"); and
- iii) evidence that application has interest in, and control over the site.

H. A complete list of requested exception to local by-laws and regulation containing a specific reference to each by-law, or regulation section which the applicant seeks to have the board grant exception from. General statements or plan references will not be sufficient. In addition, the list of requested exceptions should refer the Board to applicable locations on the plans where local regulations will not be adhered to. For purposes of this section "by-laws or regulations" shall include but not be limited to the Hardwick Zoning By-law, the Subdivision Control Regulations, Board of Health Rules and Regulations, and Sewer and Water District Regulations.

I. A copy of the most recent deed and plan of record of the site and all documents demonstrating applicant's interest in the site. If the site is subject to any options to purchase, a complete copy of said agreement shall be provided.

J. Evidence of local need for the type and number of housing units proposed by the applicant shall be provided.

K. Other documents which the applicant may wish the Board to consider in support of its application may be submitted either with the above or at the public hearing such as traffic counts and circulation plans and studies; drainage and hydrological studies detailing methods proposed to mitigate and decrease off-site, adverse drainage impacts; proposed signage plans and details; landscaping plans; subsurface test data, geological data and studies; percolation data; housing preference to be afforded to local residents; management plans describing proposed maintenance of community facilities and common areas, including memberships; methods proposed to insure completion of roads and improvements including surety and bonding; mechanisms proposed to ensure the continued affordability of housing units; construction timetables and sequences; all state and local permits, approvals and fee schedules which the applicant will not seek exceptions from and which will be required to complete the development.

5.4. NOTICE TO LOCAL OFFICIALS

Within seven days after filing of the application, the Board shall notify each local official of the application, shall send such official a copy of the complete application and attachments thereto upon request and shall request said officials to review and comment upon the plans and shall invite the participation and comment of the local officials at the public hearing.

5.5. PUBLIC HEARING AND DECISION

The Board shall hold a public hearing on the application within thirty days of its receipt and shall render a decision based upon a majority vote of the Board within forty (40) days after termination of the public hearing, unless such time is extended by written agreement between the applicant and the Board. The hearing shall be conducted in the same manner and subject to the same Rules applicable to other applications, petitions and appeals before the Board, including the employment of consultants and assessment to applicant of review fees.

5.6. BOARD ACTION

In acting upon an application, the Board may:

A) Grant a comprehensive permit upon the terms and conditions contained in the application;

B) Deny a comprehensive permit on the grounds that such permit is not consistent with local needs;

C) Approve a comprehensive permit upon such terms and conditions that shall make the grant of the permit consistent with local needs and that shall not make the proposed construction or operation of the housing units uneconomic.

5.7. APPEALS

Any party aggrieved by the Board's action upon an application for a comprehensive permit may appeal to the appropriate Court or Agency as set forth in G.L. c. 40B, ss.17 and/or 22.

ARTICLE 6

AMENDMENT

These rules and regulations may be amended, revised, or repealed from time to time by majority vote of the Board. Any such amendment, revision or repeal shall become effective upon filing in the Office of the Town Clerk. -

EXHIBIT A

ZONING BOARD OF APPEALS COMPREHENSIVE PERMIT REGULATIONS

Section I: Application

A. Each applicant shall submit twenty copies of the application which shall include at minimum the following information:

- (a) Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved area; and proposed landscaping improvements and open areas within the site. All structures of five or more units must have site development plans signed by a registered architect;
- (b) A report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood;
- (c) Preliminary, scaled, architectural drawings. For each building the drawings shall be signed by a registered architect, and shall include typical floor plans, typical elevations, and sections, and shall identify construction type and exterior finish;
- (d) A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular area, and by open area;
- (e) Where a subdivision of land is involved, a preliminary subdivision plan;
- (f) A preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants;
- (g) Documents showing that the applicant fulfills the jurisdictional requirements of 760 CMR 31.01;
- (h) A list of requested exceptions to local requirements and regulations, including local codes, ordinances, by-laws or regulations.

ADOPTED BY ZBA - 3/15/05

TOWN OF HARDWICK
ZONING BOARD OF APPEALS
FEE SCHEDULE

All applications, petitions, appeals & 200.00
variances to the Board under
MGL, C.40A

Comprehensive Permit - MGL, C. 40B 2,500.00

TOWN OF HARDWICK
ZONING BOARD OF APPEALS
REQUEST FOR VARIANCE

Case # _____

Date and Time Filed with Town Clerk: Date _____
Time _____

Town Clerk Signature _____

Applicant: Name _____
Residential Address _____
Mailing Address _____
City, State, Zip _____
Telephone _____

Owner of Land: Name _____
Residential Address _____
Mailing Address _____
City, State, Zip _____
Telephone _____

Attorney/Agent (if applicable)
Name: _____ **Telephone** _____
Address _____

Identification of Land: Deed - Book _____ **Page** _____
Zoning District _____ **Assessor Map** _____ **Lot** _____
Description of Land _____

Location of premises as to which this variance is brought: _____

The applicant desires to use said premises as follows: _____

The applicant requests a variance from the application of the following section(s) of the Zoning By-law. _____

Applicant alleges that each of the requirements for the grant of a variance set forth in MGL, C40A, s.10 have been satisfied for the following reasons:

A. A literal enforcement of the provisions of the Zoning By-law would involve substantial hardship, financial or otherwise, to the applicant for the following reasons: _____

B. Said substantial hardship is owing to circumstances relating to the soil condition, shape, or topography of such land or structures for the following reasons: _____

C. Said substantial hardship especially effects said land or structures, but does not affect generally the zoning district in which it is located, for the following reasons: _____

D. Describe relief may be granted without detriment to the public good, for the following reasons: _____

E. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Town of Hardwick Zoning By-law for the following reasons: _____

PLEASE USE ADDITIONAL PAGES IF NEEDED.

All plans submitted for a variance must be stamped and signed by a registered land surveyor.

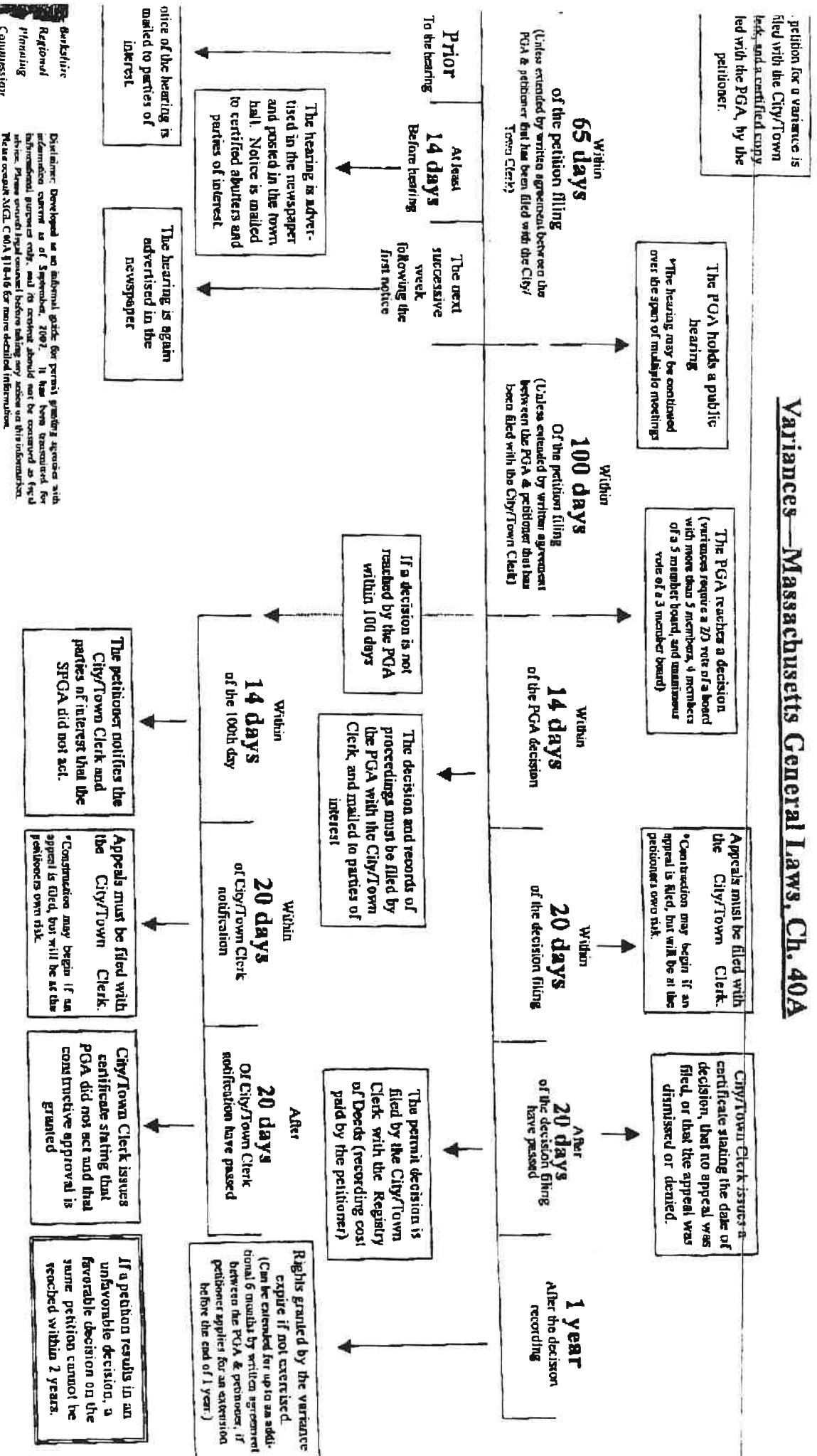
Your presentation before this Board should specifically relate to all five of these prerequisites. If in doubt, contact an attorney before filing your appeal. If your appeal is denied, you would have to wait two years before reapplying. It is best to be fully prepared at the time of the hearing.

It is the applicants's responsibility to be familiar with the rules & regulations of the Hardwick ZBA prior to the public hearing.

Signature of Applicant: _____

Signature of Owner: _____

Variations—Massachusetts General Laws, Ch. 40A



Berkshire Regional Planning Commission

Disclaimer: Developed as an informal guide for permit granting agencies with information current as of September, 2007. It has been prepared for informational purposes only, and its content should not be construed as legal advice. Please consult legal counsel before taking any action on this information. Please consult MGL Ch. 40A §18-16 for more detailed information.