

## **SECTION IX**

### **Board of Appeals**

#### **A. Establishment.**

There is hereby established a Board of Appeals which shall consist of three members, each appointed by the Board of Selectmen for a term of three (3) years, provided that only one (1) term shall expire each year; there shall also be three (3) associate members, each appointed by the Board of Selectmen for a term of three (3) years, provided that only one (1) term shall expire each year, to serve on said Board of Appeals in case of a vacancy, the inability to act, the absence, or personal interest on the part of a member. The Board of Appeals shall act in all matters under this By-Law in the manner prescribed in M.G.L.A. ch 40A. All members and associate members shall be residents of the Town of Hanson.

#### **B. Powers.**

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

1. To hear and decide applications for Special Permits upon which the Board is empowered to act in this By-Law, in accordance with the provisions of Section VIII.D.
2. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures. Such variance shall be granted, pursuant to M.G.L.A. ch. 40A, § 10, as may be amended, only in cases where the Board of Appeals finds all of the following:
  - a) A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial, or otherwise, to the petitioner or applicant.
  - b) The hardship is owing to circumstances relating to the 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.
  - c) Desirable relief may be granted without either:
    - (1) substantial detriment to the public good; or
    - (2) nullifying or substantially derogating from the intent or purpose of this By-Law.

- d) The Board of Appeals shall not grant use variances in any district of the Town. (05/1984)

**3. To hear and Decide Other Appeals.** Other appeals will also beheard and decided by the Board of Appeals when taken by:

- a) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. ch. 40A; or by
- b) The Regional Planning Agency; or by
- c) any person including any officer or Board of the Town of Hanson, or of any abutting town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of M.G.L.A. ch. 40A, or this By-Law.

**4. To Issue Comprehensive Permits.** Comprehensive Permits for construction may be issued by the Board of Appeals for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, upon the Board's determination that such construction would be consistent with local needs, whether or not consistent with local zoning, building, health, or subdivision requirements, as authorized under M.G.L.A. ch. 40B.

**5. To hear and decide appeals under the Commonwealth of Massachusetts State Building Code, as provided under Section 126 of that Code.**

**C. Public Hearings**

The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws, with regard to all appeals and petitions brought before it.

**D. Rules of the Board:**

- 1. The Board of Appeals shall adopt such rules of procedure and exercise such powers and duties as are consistent with Chapter 40A of the General Laws, as may be from time to time amended. Said rules of procedure shall include provisions for submission of petition in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision, and for notifying the parties at interest, including the Building Inspector and the Planning Board, as to each decision. The powers and duties of the Board of Appeals shall include the power of determining action in the cases set forth in this bylaw.

2. The Board shall cause a detailed record to be made of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decision, and of its other officers' actions, copies of all of which shall be immediately filed in the office of the Town Clerk and shall be a public record. Notice of decisions shall be mailed forthwith to parties in interest as designated in Section 17 of Chapter 40A, to the Planning Board, and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent.