



Town of Mashpee

ZONING BY-LAW

Additions and Revisions

As Amended at
Annual Town Meeting March 3, 1969

TOWN OF MASHPEE

Additions and Revisions to By-laws

At the Annual Town Meeting, March 3, 1969, the By-Laws were amended as follows:

CHAPTER III, ARTICLE II, F. ZONING DISTRICTS, I. RESIDENCE DISTRICTS, delete subsections—"1. R-75 Residence Districts, 2. R-100 District" and insert the following subsection:

1. R-125 District

(a) Use: No building shall be erected or altered and no building or premises shall be used for any purpose except:

(1) Detached one-family dwelling, except that alterations of single family units may be permitted, to allow use as a two-family unit by the granting of a special permit.

(2) In addition to accessory uses permitted under Paragraph E of this by-law the following uses may be permitted, subject to the operator living upon the premises and to the limitations stated herein. A billboard, signboard or advertising sign shall in no case be permitted as an accessory use, except as herein specified. The placing of a "For Sale" or "For Rent" sign shall, however, be permitted as an accessory use. A sign pertaining to a home occupation as herein specified, shall be permitted, provided such signs be not over three (3) square feet in area.

(a) Offices for professional use and customary home occupations such as arts, crafts, service businesses, antique and gift shops, or any use determined to be of a similar character, said determination to be made by the Board of Appeals following a petition of the land owner or owners and a special permit granted therefor, including only uses conducted in dwellings or in accessory buildings and involving only the services of persons living on the premises and not more than one (1) other

employee, except that the occasional presence of additional employees on the premises shall not be prohibited, and further exception physicians, surgeons and dentists, which professions require clerical and medical assistants. Such permitted accessory uses shall not entail any external changes in the structural form of the building. Permitted uses shall be restricted to such as are not offensive by reason of the emission or odor, dust, smoke, gas, noise or vibration, or otherwise obnoxious such as by reason of the accumulation of materials or debris.

(3) The taking of not more than six (6) lodgers in any dwelling.

(b) Size of Lots—No building, except one-story buildings of accessory use, shall be erected on a lot less than one hundred (100) feet frontage and containing not less than 12500 square feet provided that (1) one family dwelling and its accessory buildings may be erected on any lot which at the time this by-law is adopted is shown on plan of land properly endorsed by the Planning Board of Mashpee.

CHAPTER III, ARTICLE II F ZONING DISTRICTS, I. RESIDENCE DISTRICTS "3. R-150 RESIDENCE DISTRICTS": Change to

"2. R-150 RESIDENCE DISTRICT".

CHAPTER III, ARTICLE II, F II, BUSINESS DISTRICT: Delete subsection (A) and insert the following subsection (A):

Use: Any use permitted in a residence District subject to the following restrictions:

1. Size of lots — No building, except one-story buildings of accessory use, shall be erected on a lot less than seventy-five (75) feet wide and containing less than seventy-five hundred (7500) square feet.
2. Setback requirements — No building shall be erected within (20) feet at the side line of a street, nor closer than ten (10) feet to the side lines or rear lines of the lot.

CHAPTER III, ARTICLE II. G ADMINISTRATION.

1. BOARD OF APPEALS, insert:

"Written notice of all hearings shall be submitted to the Planning Board of the Town of Mashpee at least fourteen (14) days prior to the date of such hearing.

CHAPTER III, ARTICLE II, G. ADMINISTRATION, 3. SPECIAL PERMITS, (b) delete "Majority Vote" and insert "Unanimous Vote".

Delete "R-75 RESIDENCE DISTRICT" wherever it appears and insert "R-125 RESIDENCE DISTRICT" in place thereof.

Richardson H. Jonas,
Chairman

March 3, 1969

Chapter III
Article II. Zoning By-Laws

A. Purpose

1. The purpose of these by-laws is to promote the health, safety, and general welfare of the inhabitants of the Town of Mashpee, to protect and conserve the value of property within the town, to increase the amenities of the town, and to secure safety from fire, congestion or confusion, all in accord with the General Laws, Chapter 40A, Sections one (1) to twenty-two (22), inclusive, as amended.

B. Establishment of Districts

1. The Town of Mashpee is hereby divided as shown on the Map entitled "Zoning Map, Town of Mashpee, Massachusetts," dated November 3, 1959, and filed with the Town Clerk, into the following districts: ~~R-75 Residence District~~ R-125 Residence District, R-100 Residence District, R-150, Residence District, Business District, Marine Area District, and Industrial District. Said map, and such amendments to it as shall be duly enacted, shall be considered an integral part of this By-law. Boundaries of zoning districts shown on said map shall be assumed to be accurate. (Article 56, 3/3/69)
2. Lots in Two Districts-Where a District boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion, provided the lot has street frontage in the less restricted area.

C. Permitted Uses

1. The following uses are permitted in all Districts:
 - (a) General purpose farm, agriculture, garden, greenhouse or nursery, selling only produce or plants the major portion of which is raised locally in the Town of Mashpee or on property owned by a resident or residents of the Town of Mashpee, and excluding any use injurious, noxious, or offensive to the neighborhood.
 - (b) Church use.
 - (c) Educational use, provided that, in the case of non-religious educational uses, they shall be non-profit enterprises of a type subject to regulation by the State Department of Education.
 - (d) Municipal, municipal recreation or water supply use.
 - (e) Hospital or sanitarium use.
 - (f) Public or private facilities for recreation, such as golf, tennis, boating, bathing, fishing or horseback riding, with accessory uses customarily incident thereto. (Article 59, 3/4/63)

D. Non-Conforming Uses

1. Any lawful building or lawful use of a building or premises or part thereof in the Town of Mashpee existing at the time this by-law is adopted may be continued, although such building or use does not conform to the provisions hereof.
2. Any such non-conforming building which has been damaged by fire or other cause to any extent may be repaired or rebuilt, but the total floor area shall not be increased, unless first authorized by a special permit from the Board of Appeals, and providing said owner shall apply for a building permit and start operations for restoring or rebuilding on said premises within twelve (12) months after such catastrophe. This section shall not apply to Business Districts

3. In All Districts:

- (a) Provided the Board of Appeals first grants a special permit therefore, any such non-conforming building or structure may be altered or increased in size or any such non-conforming use may be extended over all or any part of the premises upon which the same is located at the time this by-law is adopted. It is the intent of this paragraph that only substantial alterations require a special permit; minor alterations may be permitted at the discretion of the Building Inspector.
- (b) No such non-conforming use that has been discontinued for three years shall be re-established unless first authorized by special permit from the Board of Appeals.
- (c) The Board of Appeals may permit any non-conforming use to be changed to any specified use not more detrimental to a neighborhood.

E. Accessory Uses-Residence Districts

- 1. Accessory uses customarily incident to any of the uses permitted in a particular residence district and not detrimental to a residential neighborhood shall be permitted in that particular residence district.
- 2. The term "Accessory Use" shall not include:
 - (a) Any use not on the same lot with the building to which it is accessory unless authorized by the Board of Appeals.
 - (b) A garage or storage from commercial vehicles unless authorized by the Board of Appeals.
 - (c) Advertising signs except those pertaining to the lease or sale of a lot or building on which they are placed, and not exceeding twelve (12) square feet in total area; provided that on a lot occupied by a dwelling house there may not be more than two (2) signs with a total area of not more than three (3) square feet, pertaining to the use of or accessory use of such building.
- 1. In business and industrial areas, no advertising signs shall exceed a width greater than one-half of the building frontage, nor a depth exceeding twelve (12") inches. The use of neon or similar gases is prohibited for advertising purposes, as is also the use of continually flashing lights.

F. Zoning Districts

I. Residence Districts:

~~1. R-75 Residence District R-125 Residence District:~~

- ~~(a) Use: In a R-75 Residence District R-125 Residence District no building shall be erected or altered and no building or premises shall be used for any purpose except: (Article 56, 3/3/69)~~
 - ~~—(1) Detached one or two family dwelling.~~
 - ~~—(2) The taking of not more than ten (10) lodgers by a family resident in the dwelling.~~
 - ~~(3) Any of the following uses, provided the Board of Appeals authorizes a special permit therefore.~~
 - ~~-a Hotel, boarding house, lodging house, apartment house, or dwelling house, otherwise permitted.~~
- ~~(b) Size of Lots No building except one-story buildings of accessory use, shall be erected on a lot less than seventy-five (75) feet wide and containing less than seventy-five hundred (7500)~~

square feet, provided that one (1) one family dwelling and its accessory buildings may be erected on any lot which on the date of these by-laws are adopted is separately owned, the owner thereof not owning the adjacent land.

- (e) ~~Front yards; no building shall be erected within twenty (20) feet at the side line of a street, nor closer than ten (10) feet to the side lines or rear lines of the lot. (Article 57, 3/4/63)~~

2. ~~R-100 Residence District~~

- (a) ~~Use: No building shall be erected or altered and no building or premises shall be used for any purpose except:~~

- (1) ~~Detached one family dwelling, except that alterations of single family units may be permitted, to allow use as two-family unit by the granting of a special permit.~~

- (2) ~~In addition to accessory uses permitted under Paragraph E of this by-law the following uses may be permitted, subject to the operator living upon the premises and to the limitations stated herein. A billboard, signboard or advertising sign shall in no case be permitted, as an accessory use, except as herein specified. The placing of a "For Sale" or "For Rent" sign shall, however, be permitted as an accessory use. A sign pertaining to a home occupation, as herein specified, shall be permitted, provided such signs be not over three (3) square feet in area.~~

- ~~a—Offices for professional use and customary home occupations such as arts, crafts, service businesses, antique and gift shops, or any use determined to be of a similar character, said determination to be made by the Board of Appeals following a petition of the land owner or owners and special permit granted therefore, including only uses conducted in dwellings or in accessory buildings and involving only the services of persons living on the premises and not more than one (1) other employee except that the occasional presence of additional employees on the premises shall not be prohibited, and further excepting physicians, surgeons and dentists, which professions require clerical and medical changes in the structural form of the building. Permitted uses shall be restricted to such as are not offensive by reason of the emission or odor, dust, smoke, gas, noise or vibration, or otherwise obnoxious such as by reason of the accumulation of materials or debris.~~

- (3). ~~The taking of not more than six (6) lodgers in any dwelling.~~

- (b) ~~Size of Lots No building, except one-story buildings of accessory use, shall be erected on a lot less than one hundred (100) feet frontage and containing not less than ten thousand (10,000) square feet, provided that on (1) one family dwelling and its accessory buildings may be erected on any lot which at the time this by-law is adopted is separately owned.~~

- (e) ~~Front Yards No building shall be erected within twenty (20) feet from the side line of the road, nor closer than fifteen (15) feet from the side lines or rear lines of the lot.~~

1. R-125 District

- (a) Use: No building shall be erected or altered and no building or premises shall be used for any purpose except:

- (1) Detached one-family dwelling, except that the alterations of single family units may be permitted, to allow use as a two-family unit by the granting of a special permit.

- (2) In addition to accessory uses permitted under Paragraph E of this by-law the following uses may be permitted, subject to the operator living upon the premises and to the limitations stated herein. A billboard, signboard or advertising sign shall in no case be permitted as an accessory use, except as herein specified. The placing of a "For Sale" or "For Rent" sign shall, however, be permitted as an accessory use. A sign pertaining to a

home occupation, as herein specified, shall be permitted, provided such signs be not over three (3) square feet in area.

-a- Offices for professional use and customary home occupations such as arts, crafts, service businesses, antique and gift shops, or any use determined to be of a similar character, said determination to be made by the Board of Appeals following a petition of the land owner or owners and special permit granted therefore, including only uses conducted in dwellings or in accessory buildings and involving only the services of persons living on the premises and not more than one (1) other employee except that the occasional presence of additional employees on the premises shall not be prohibited, and further excepting physicians, surgeons and dentists, which professions require clerical and medical assistants. Such permitted accessory uses shall not entail any external changes in the structural form of the building. Permitted uses shall be restricted to such as are not offensive by reason of the emission or odor, dust, smoke, gas, noise or vibration, or otherwise obnoxious such as by reason of the accumulation of materials or debris.

(3). The taking of not more than six (6) lodgers in any dwelling.

(b) Size of Lots - No building, except one-story buildings of accessory use, shall be erected on a lot less than one hundred (100) feet frontage and containing not less than 12,500 square feet, provided that one (1) one-family dwelling and its accessory buildings may be erected on any lot which at the time this by-law is adopted is shown on a plan of land properly endorsed by the Planning Board of Mashpee. (Article 59, 3/3/69)

~~3. R-150 Residence District:~~ 2. R-150 Residence District: (Article 57, 3/3/69)

(a) Use-No building shall be erected or altered and no building or premises shall be used for any purpose except

(1) Detached one-family dwelling.

(a) No building shall be used for the purpose of taking lodgers except where such use of a building lawfully exists at the time this by-law is adopted.

(b) Size of Lots-No building, except one-story buildings of accessory use, shall be erected on a lot less than one hundred fifty (150) feet minimum average width and minimum frontage of one hundred twenty-five (125) feet and containing not less than twenty-two thousand five hundred (22,500) square feet, provided that one (1) one-family dwelling and its accessory buildings may be erected on any lot which, at the time this by-law is adopted, is separately owned. (Article 21, 3/7/66)

(c) Front Yards-No building shall be erected within thirty (30) feet of a street line, provided that no building need be set back more than the average of the setbacks of the buildings on the lots next thereto on either side, a vacant lot one hundred (100) feet or more in width or a lot occupied by a building set back more than thirty (30) feet.

(d) No building to be erected closer than fifteen (15) feet from sidelines or rear line.

II. Business District:

~~(a) Use: Any use permitted in a Residence District, subject to the lot area, setback, sideline, and rear line restrictions in the R-75 Residence District.~~

(a) Use: Any use permitted in a residence District subject to the following restrictions:

1. Size of lots -- No building, except one-story buildings of accessory use, shall be erected on a lot less than seventy-five (75) feet wide and containing less than seventy-five hundred (7500) square feet.

2. Setback requirements -- No building shall be erected within (20) (sic) feet at the side line of a street, nor closer than ten (10) feet to the side lines or rear lines of the lot. (Article 55, 3/3/69)
- (b) Additional uses permitted: retail stores, banks, professional offices, service outlets, automobile garages and salesrooms, theaters and restaurants. (Article 58, 3/4/68)
 - (c) Any other business, storage, warehousing, or light manufacturing operations, provided that the Board of Appeals shall find:
 - 1- That adequate provision will be made for off-street parking, loading and unloading, and handling of vehicular circulation;
 - 2- That the proposed use will be so designed and operated that it will not be likely to be obnoxious, injurious, or hazardous to the neighborhood; and
 - 3- That the combination of setbacks and screening by planting or structures will be such as to insure against any detrimental affect upon existing or potential use of adjoining properties. A junk yard or yard for storing, wrecking or dismantling non-operable motor vehicles shall be considered to be adequately screened only if it is entirely surrounded by sight-impervious fence or evergreen planting.
 - (c) No building shall be erected and no roadside stand or accessory use shall be placed nearer to the street line than the average of the setback of buildings on a lot next thereto. If there is no building on a lot next thereto, then the setback shall be twenty (20) feet unless there is a present existing setback, in which case the present existing setback shall prevail, except:
 - ~~-1- No building in the business area on both sides of Routes 28, 130, or 151 shall be nearer than fifty (5) feet to the street line.~~
 - 1- No building in the business district on Route 28, Route 151 and Great Neck Road, south from the Rotary Circle shall be nearer than one hundred (100) feet to the street line.

No building in the business district on Route 130 and Great Neck Road, north of the Rotary Circle shall be nearer than fifty (50) feet to the street line. (Article 59, 3/4/68)

III. Marine Area District

- (1) Establishes a Marine Area limited to the building, sale, rental, storage and repair of boats and for the sale of marine supplies.

IV. Industrial Area District

- (1) In any Industrial District, no building, structure or premises shall be used and no alteration, enlargement or extension of an existing building or structure shall be designed, arranged, or constructed which is intended or designed to be used in whole or in part except for one or more of the following purposes:
 - (a) Any use permitted in a business district.
 - (b) Lumber, fuel, feed and ice establishments, and contractor's yard.
 - (c) Any manufacturing or industrial use.
 - (d) Automobile dismantling or used parts yards and junk yards, if authorized by a special permit granted by the Board of Appeals.

- (e) No building permit shall be granted under this section for any use which might prove injurious to the safety or welfare of the immediate neighborhood, and destructive of property values because of any excessive nuisance qualities.

In any cases where the type of business or industrial operation necessarily produces noises, dust, or air-pollution which might adversely affect other owners or occupants in the neighborhood, it shall be the duty of the Building Inspector to refuse to issue a building permit without prior approval of the Board of Appeals; and a decision of the Board of Appeals approving the issuance of a building permit under this section by the by-law shall not issue unless the said Board has a prior written opinion from the Board of Health wherein the Board of Health may comment on the proposed business or industrial operation and make such recommendations as to it may seem desirable. The requirement of a prior written opinion from the Board of Health shall be deemed to be waived, however, if the same be delayed for more than seven days beyond the date of the hearing held before the Board of Appeals.

V. Cluster Zoning Development

- (1) If a plan of land, containing 100 or more acres in a single parcel or contiguous parcels (disregarding streets, public or private easements, and creeks or other natural barriers), of which not less than 60 acres is registered land, is submitted to the Board of Appeals upon petition under Section 9.3; if the Board finds that development of the land shown on the plan on the cluster zoning principle will fulfill the spirit and intent of this By-Law without substantial detriment to the public good; and if a portion of the registered land, sufficient to constitute a dominant tenement, is deeded to the Town of Mashpee by a deed which states that the land thereby conveyed is benefited by restrictions imposed thereby upon all of the land shown on such plan, which restriction: (1) run, with respect to their burden, with all of the land shown on such plan; (ii) are noted on or in the certificate or certificates of title to the registered portions of such land; (iii) have a stated duration of not less than the maximum period permitted by Section 27 of Chapter 184 of the General Laws of The Commonwealth of Massachusetts; (iv) contain the provisions for extension described in said section; and (v) have the effect, when considered in the aggregate, of:
 - (a) Permitting no more than three dwelling units times the number of acres of registered land, and
 - (b) Permitting no more than 870 square feet of area (including in such computation the sum of the floor areas of any building by excluding customer parking areas) times the number of areas of registered land to be devoted to commercial uses, other than recreational uses.

THEN, all other provisions of this Section F, including but not limited to prohibitions on use and minimum lot size and frontage requirements shall not be applicable to the registered land so long as such restrictions are enforceable, except that no part of such land may be used for industrial or obnoxious uses. If any of the unregistered land in subsequently registered and effectively subjected to the foregoing restrictions in favor of the dominant tenement, it shall thereafter be treated, for all purposes of this Section F, as if it had been so registered and subjected at the time of approval of the plan.

- (2) For the purposes of this Section F.V., a "dwelling unit" shall not include detached buildings on any lot utilized solely for non-paying guests of the person or persons occupying the principle dwelling unit on the same lot, but it shall include each individual room or suite of rooms in any hotel or motel. (Article 61, 3/4/63)

G. Administration

- 1. Board of Appeals - A Board of Appeals shall be appointed by the Selectmen. The Board shall consist of three members and each shall be appointed by the Selectmen to hold office for the term of three years or until his successor is appointed and qualified. In case of vacancy, inability to act, or interest on the part of a member of the Board, the Chairman of the Board of Appeals may

designate an associate member protem to act in his place. Three associate members shall also be appointed by the Selectmen, to hold office under the same conditions as regular members. Written notice of all hearings shall be submitted to the Planning Board of the Town of Mashpee at least fourteen (14) days prior to the date of such hearing. (Article 58, 3/3/69)

2. The Board of Appeals may in appropriate cases and subject to appropriate conditions and safeguards make exceptions to the terms of the zoning by-laws in harmony with their general purpose and intent.
3. Special permits.
 - (a) Under all sections of the zoning by-law where the granting of special permits is specified, a petition shall be filed with the Board of Appeals.
 - (b) A decision of the Board of Appeals on a petition for special permits shall be by a ~~majority~~ unanimous vote of the Board and shall be based on consideration of the following factors: (Article 55, 3/3/69)
 - (1) Whether or not the petition falls within the category specifically excepted by the by-law.
 - (2) An evaluation of all the evidence presented at the hearing by the petitioner and interested parties as it relates to the fulfillment of the spirit and intent of the by-law without substantial detriment to the public good.
 - (c) A special permit shall become void if not made use of in the intended manner within twelve (12) months.
4. Enforcement.
 - (a) The Chief of Police, upon application of the Inspector of Buildings or a member of the Board of Selectmen shall cause complaint to be made before the proper court for any violation under the by-law. Anyone convicted of a violation under this by-law shall be fined not more than twenty (20.00) dollars.
 - (b) The Board of Selectmen upon application of the Inspector of Buildings shall institute proceedings to enforce this by-law and to enjoin the construction, alteration, enlargement, reconstruction or use of any building, or the use of any premises in violation hereof.
 - (c) The Inspector of Buildings may require any plans, documents or written statements under penalties to be filed with his office to verify the intended use of the premises.
 - (d) The use of one (1) remedy shall not preclude a resort to any other remedy for the same violation.

H. Building Inspector

1. An Inspector of Buildings shall be appointed and may be removed by the Board of Selectmen, who shall fix his salary and provide for reimbursements for his incidental expenses in the performance of his duties.
2. The Inspector of Buildings shall enforce all laws and regulations relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided. He shall inspect all building operations within the town, and shall have the right of entry at reasonable hours. He shall require that all workmanship and all building materials shall be of good quality, and that types and methods of construction shall be in accordance with generally accepted standards of engineering practice in accordance with Section III Chapter 143 of the General Laws of the Commonwealth of Massachusetts. In case of violation of these regulations, he shall order, in writing, the suspension of the work, which notice shall state the conditions under which the work may be resumed.

I. Records and Reports

1. The Inspector of Buildings shall keep records of applications, permits issued, reports and notices or orders issued. He shall make a report to the Board of Selectmen annually, and at such other times as requested by said Board.

J. Application for Permits

1. It shall not be lawful to construct, alter, remove, demolish or change the class of occupancy of any building or structure without first filing with the Inspector of Buildings an application in writing and obtaining a permit.
2. An application for a permit shall be submitted in such form as the Inspector of Buildings may prescribe, and shall be made by the owner or his duly authorized representative.
3. Applications for permits shall be accompanied by such plans, drawings and other data as the Inspector of Buildings may require.
4. In existing buildings minor repairs may be made without filing or obtaining a permit.

K. Permits, Inspection Fees

1. It shall be the duty of the Inspector of Buildings to act upon applications for permit or plans without unreasonable or unnecessary delay.
2. The Inspector of Buildings shall inspect all buildings or structures during the construction to see that the provisions of these regulations are complied with and the construction prosecuted safely.
3. The fee for a building permit shall be established by the Board of Selectmen.

L. Unsafe Buildings

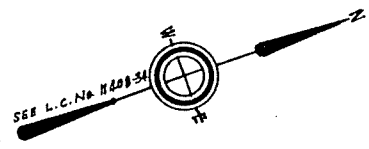
Upon notice of an unsafe building the Inspector of Buildings shall proceed in accordance with the provisions of General Laws, Chapter 143, Section 6 to 12, inclusive, and any amendments thereof. (If any provision of these zoning by-laws shall be declared unconstitutional or illegal by competent authority, the validity of the remaining provisions of the by-laws shall not be affected thereby.)

M. Area Regulations

1. Filled Land. No person shall fill any area in the Town of Mashpee with earth, concrete, or other material to a depth in excess of five (5) feet without a permit from the Board of Selectmen. Said Board may require an applicant for such permit to furnish such plans or specifications as the Board may deem necessary and any permit issued hereunder may contain such provisions, conditions or limitations as the Board may deem proper. Any person aggrieved by any action of the Board of Selectmen hereunder shall have the right to appeal to the Zoning Board of Appeals under the applicable provisions of the Zoning Laws. (Article 60, 3/4/63)

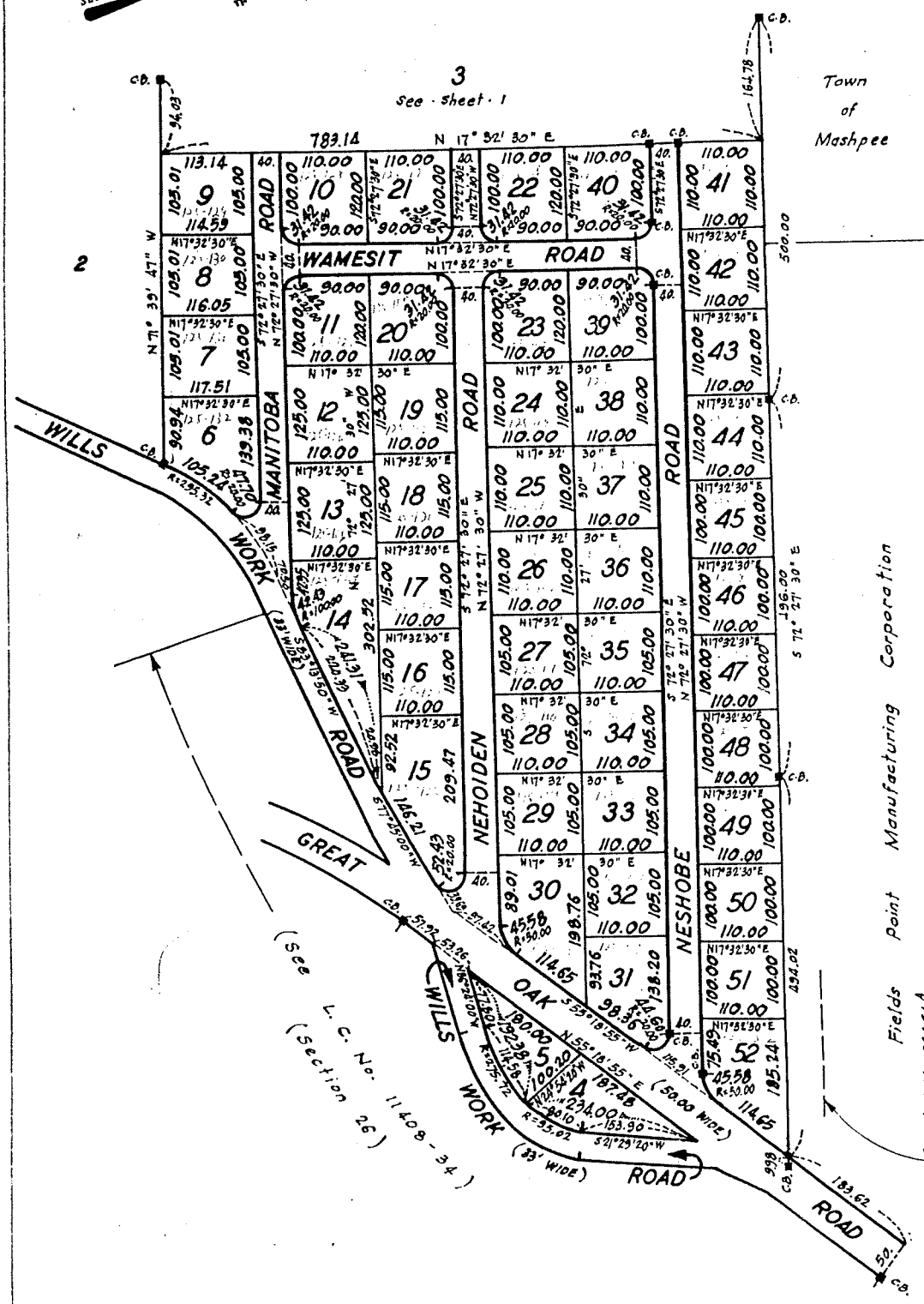
26502C

SHEET 2



3
See Sheet 1

Town
of
Mashpee



Fields point Manufacturing Corporation

See L.C. No. 25464
(Pending)

MAP 125-41-5-3-12

Scale of this plan 150 feet to an inch

Article 53 Ctd:

Benway: I make a motion this article be indefinitely postponed. It has been brought to my attention that for the offenses mentioned we can get much in excess of \$50.00 fines. If we postpone, and follow the General Laws, we can get fines up to \$500.00

Motion seconded, and so voted.

Article 54: To see if the Town will amend the Zoning By-law of the Town of Mashpee, Chapter III, Article 2-G, Administration, 3, Special Permits, (b) by deleting "majority vote" and inserting "unanimous vote." Submitted by Planning Board.

Rollins: This was inserted by the Planning Board to make the By-laws of the Town correspond with the General Laws of Mass. I make a motion it be accepted as read. Seconded. So voted.

Article 55: Jonas asks that articles 56, 57, and 59 be considered at this time.

Moderator: Instead of - or in conjunction with article 55?

Jonas: Article 56 first, please.

Moderator concurs. Reads

Article 56: To see if the Town will amend the Zoning By-law and Zoning Map of the Town of Mashpee by deleting "R-75 Residence District" wherever it appears and by inserting "R-125 Residence District" in place thereof. Submitted by Planning Board.

George Green: I make a motion article 56 be accepted as read. (seconded).

Moderator: May we have a report from the Planning Board on this?

R. Jonas: What we are actually doing is eliminating R-75 lots - 75 x 100 lots, and also 100 x 100 lots, and having a minimum lot size of 125 x 100 feet. One reason for doing this is because it states in the sanitary code that there shall be 100 feet between the cesspool and the well. In order to do this you are limited to doing it diagonally on the lot. For this reason, we are increasing the size to 125 x 100 so you won't be limited to placing the well and cesspools diagonally on your lot but can put it straight out.

Most Cape towns have town water and sewerage. Most lots where you don't have these services are larger than the lots we are calling for here. Most of them are half acre lots, or more.

Hicks: One question please. Does this have any affect on developments already laid out and approved?

Jonas: No, not on plans brought in previously and approved.

Hicks: How about any one who has recently purchased a lot?

Jonas: Are you talking about individual lots?

Hicks: Yes.

Jonas: No.

Hicks: Does this affect future lots?

Jonas: Yes.

T. Saunders: I think he is in error. If an individual owner has not submitted and had approval prior to the passage of this article, they would be affected.

Rollins: This By-law will affect sub-divisions coming in. Anyone who has plans as yet unsubmitted will be affected. If your plans are approved prior to the adoption of this amendment, you will not be affected. After some further words in explanation, Rollins gave over to Aiken.

Aikens: Are you saying that if a young fellow has bought him a 75 foot lot, and is just now able to build, he is stuck with it?

Jonas: No

Aiken: This should be spelled out to protect that man.

Moderator: It is - in the By-law.

Jonas: It is spelled out in the General Laws.

Vote called for: Motion was carried by affirmative/vote. voice

Hicks: I think we should have interpretation by Town Counsel, because this thing is not quite clear. It seems this can be effective after a certain period of time.

Moderator: Okey. Then we will continue.

Town Counsel states here he is satisfied it would not affect individual lot owners and we can vote on article as it appears.

Saunders questions if the Town Counsel has considered the cases wherein a lot is owned - but has not been recorded with Registry of deeds.

Town Atty. reiterates - It is not necessary to submit single lots to the Planning Board. Only if the person has acreage and wishes to subdivide into lots. If a lot is large, and then subdivided, it must be submitted.

Saunders again questions about individual lots.

Answer: What you are thinking about is that a person has to go to the building inspector.

Saunders: He has to go to the Planning Board before the Building Inspector.

DANIELLE RICH STONE

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Jonas: This is not true. If you own a lot of land and have plans you can show the building inspector - and you are not in a subdivision but have an individual lot - and if you can show the building inspector that you are in line with what your section is zoned for - that is - residential, business, etc. - you can build.

Aiken again raises the question of what about a poor guy stuck with a 75 x 100 foot lot - he could be turned down.

Rollins: Mass. Gen. Laws Chapt. 40 Section 5-A takes care of that: Any person with 5,000 sq. feet or more - the building inspector must give him permission to build.

Moderator: Shall we go on with the voting?

Geo Green: The reason I brought this up - the Board of Health has been in controversy with the Planning Board the past few years. We are not authorized to authorize sewage and water supply on 75 foot lots. This law was passed a year ago. We were placing our wells and sewerage systems at 50 feet maximum. We are just not supposed to authorize those with variances from the law.

Vote was called for. Hand count....37 for - 14 opposed - motion carried.

Article 57: To see if the Town will amend the Zoning By-law of the Town of Mashpee by renumbering Chapter III, Article II F Zoning Districts, I. Residence Districts "3. R-150 Residence District to "2. R-150 Residence District." Submitted by Planning Board.

Rollins: I make a motion article fifty-seven be accepted as read. Seconded. So voted.

Article 59: To see if the Town will amend the Zoning By-law of the Town of Mashpee, Chapter III, Article II, F. Zoning Districts, I. Residence Districts, by deleting sub-sections - "1. R-75 Residence Districts" and "2. R-100 District" and by inserting the following subsection:

"1. R-125 District

(a) Use: No building shall be erected or altered and no building or premises shall be used for any purpose except:

(1) Detached one-family dwelling except that alterations of single family units may be permitted, to allow use as a two-family unit by the granting of a special permit.

(2) In addition to accessory uses permitted under Para E of this by-law the following uses may be permitted, subject to the operator living upon the premises and to the limitations stated herein. A billboard, signboard or advertising sign shall in no case be permitted as an accessory use, except as herein specified. The placing of a "For Sale" or "For Rent" sign shall, however, be permitted as an accessory use. A sign pertaining to a home occupation, as herein specified, shall be permitted, provided such signs be not over three (3) square feet in area.

Article 59 Ctd.:

(a) Offices for professional use and customary home occupations such as arts, crafts, service businesses, antique and gift shops, or any use determined to be of a similar character, said determination to be made by the Board of Appeals following a petition of the land owner or owners and a special permit granted therefor, including only uses conducted in dwellings or in accessory buildings and involving only the services of persons living on the premises and not more than one (1) other employee, except that the occasional presence of additional employees on the premises shall not be prohibited, and further excepting physicians, surgeons and dentists, which professions require clerical and medical assistants. Such permitted accessory uses shall not entail any external changes in the structural form of the building. Permitted uses shall be restricted to such as are not offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration, or otherwise obnoxious such as by reason of the accumulation of materials or debris.

3) The taking of not more than six (6) lodgers in any dwelling.

(b) Size of lots - No building, except one-story buildings of accessory use, shall be erected on a lot less than one hundred foot frontage and containing not less than 12,500 square feet provided that (1) one family dwelling and its accessory buildings may be erected on any lot which at the time this by-law is adopted is shown on plan of land properly endorsed by the Planning Board of Mashpee. Submitted by Planning Board.

Motion made and seconded article be accepted as read. So voted.

Article 55: To see if the Town will amend the zoning by-law of the Town of Mashpee, Chapter III, Article II, FII. Business District: by deleting sub-section (a) and by inserting the following subsection (a):

"Use: Any use permitted in a residence District subject to the following restrictions:

1. Size of lots - No building, except one-story buildings of accessory use, shall be erected on a lot less than seventy-five (75) feet wide and containing less than seventy-five hundred (7500) square feet.
2. Setback requirements - No building shall be erected within 20 feet at the side line of a street, nor closer than ten (10) feet to the side lines or rear lines of the lot. Submitted by Planning Board.

Jonas: When we deleted the 75 feet for residential areas, we want to maintain the 75 feet frontage for business districts only. That is why we want 7500 square feet in business districts for businesses only.

Aiken: Did the Planning Board consider parking for business?

Jonas: It depends on the type of business. Some will require small parking areas - some larger.

Aiken: They grow.

Jonas: Then the area will have to grow with it.

Mashpee Zoning By-Laws 1969

History: Amended 3-7-1960, ATM, Article 32, approved by Attorney General 9-27-1960

History: Amended 3-6-1961 ATM, Article 48, approved by Attorney General 3-30-1961

History: Building Code added 3-5-1962 Article 51, approved by Attorney General 6-27-1962

History: Removal of Soil, Sand and Gravel and Sand Pits Added 3-4-1963 ATM, Article 53, approved by Attorney General 7-26-1963

History: Amended 3-4-1963 Article 53, 55, 56, 57, 58, 59, 60, 61 approved by Attorney General 7-26-1963

Article II. Zoning By-Laws

A. Purpose

1. The purpose of these by-laws is to promote the health, safety, and general welfare of the inhabitants of the Town of Mashpee, to protect and conserve the value of property within the town, to increase the amenities of the town, and to secure safety from fire, congestion or confusion, all in accord with the General Laws, Chapter 40A, Sections one (1) to twenty-two (22), inclusive, as amended.

B. Establishment of Districts

1. The Town of Mashpee is hereby divided as shown on the Map entitled "Zoning Map, Town of Mashpee, Massachusetts," dated November 3, 1959, and filed with the Town Clerk, into the following districts: R-125 Residence District, R-100 Residence District, R-150, Residence District, Business District, Marine Area District, and Industrial District. Said map, and such amendments to it as shall be duly enacted, shall be considered an integral part of this By-law. Boundaries of zoning districts shown on said map shall be assumed to be accurate.

History: Amended 3-3-1969 ATM, Article 56, approved by Attorney General 5-30-1969

2. Lots in Two Districts-Where a District boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion, provided the lot has street frontage in the less restricted area.

C. Permitted Uses

1. The following uses are permitted in all Districts:
 - (a) General purpose farm, agriculture, garden, greenhouse or nursery, selling only produce or plants the major portion of which is raised locally in the Town of Mashpee or on property owned by a resident or residents of the Town of Mashpee, and excluding any use injurious, noxious, or offensive to the neighborhood.
 - (b) Church use.
 - (c) Educational use, provided that, in the case of non-religious educational uses, they shall be non-profit enterprises of a type subject to regulation by the State Department of Education.
 - (d) Municipal, municipal recreation or water supply use.
 - (e) Hospital or sanitarium use.

- (f) Public or private facilities for recreation, such as golf, tennis, boating, bathing, fishing or horseback riding, with accessory uses customarily incident thereto.
History: Added 3-4-1963, ATM, Article 59, approved by Attorney General 7-26-1963

D. Non-Conforming Uses

1. Any lawful building or lawful use of a building or premises or part thereof in the Town of Mashpee existing at the time this by-law is adopted may be continued, although such building or use does not conform to the provisions hereof.
2. Any such non-conforming building which has been damaged by fire or other cause to any extent may be repaired or rebuilt, but the total floor area shall not be increased, unless first authorized by a special permit from the Board of Appeals, and providing said owner shall apply for a building permit and start operations for restoring or rebuilding on said premises within twelve (12) months after such catastrophe. This section shall not apply to Business Districts.
3. In All Districts:
 - (a) Provided the Board of Appeals first grants a special permit therefor, any such non-conforming building or structure may be altered or increased in size or any such non-conforming use may be extended over all or any part of the premises upon which the same is located at the time this by-law is adopted. It is the intent of this paragraph that only substantial alterations require a special permit; minor alterations may be permitted at the discretion of the Building Inspector.
 - (b) No such non-conforming use that has been discontinued for three years shall be re-established unless first authorized by special permit from the Board of Appeals.
 - (c) The Board of Appeals may permit any non-conforming use to be changed to any specified use not more detrimental to a neighborhood.

E. Accessory Uses-Residence Districts

1. Accessory uses customarily incident to any of the uses permitted in a particular residence district and not detrimental to a residential neighborhood shall be permitted in that particular residence district.
2. The term "Accessory Use" shall not include:
 - (a) Any use not on the same lot with the building to which it is accessory unless authorized by the Board of Appeals.
 - (b) A garage or storage from commercial vehicles unless authorized by the Board of Appeals.
 - (c) Advertising signs except those pertaining to the lease or sale of a lot or building on which they are placed, and not exceeding twelve (12) square feet in total area; provided that on a lot occupied by a dwelling house there may not be more than two (2) signs with a total area of not more than three (3) square feet, pertaining to the use of or accessory use of such building.
3. In business and industrial areas, no advertising signs shall exceed a width greater than one-half of the building frontage, nor a depth exceeding twelve (12") inches. The use of

neon or similar gases is prohibited for advertising purposes, as is also the use of continually flashing lights.

F. Zoning Districts

I. Residence Districts:

1. R-125 District

History: Amended 3-3-1969 ATM, Article 59, approved by Attorney General 5-30-1969.

- (a) Use: No building shall be erected or altered and no building or premises shall be used for any purpose except:
- (1) Detached one-family dwelling except that alterations of single family units may be permitted, to allow use as a two family unit by the granting of a special permit.
 - (2) In addition to accessory uses permitted under Paragraph E of the by-law, the following uses may be permitted, subject to the operator living upon the premises and to the limitations stated herein. A billboard, signboard or advertising sign shall in no case be permitted as an accessory use, except as herein specified. The placing of a "For Sale" or "For Rent" sign shall, however, be permitted as an accessory use. A sign pertaining to a home occupation, as herein specified, shall be permitted, provided such signs be not over three (3) square feet in area.
 - a) Office for professional use and customary home occupations such as arts, crafts, service businesses, antique and gift shops, or any use determined to be of similar character, said determination to be made by the Board of Appeals following a petition of the land owner or owners and a special permit granted therefor, including only uses conducted in dwellings or in accessory buildings and involving only the services of persons living on the premises and not more than one (1) other employee, except that the occasional presence of additional employees on the premises shall not be prohibited, and further excepting physicians, surgeons and dentists which professions require clerical and medical assistants. Such permitted accessory uses shall not entail any external changes in the structural form of the building. Permitted uses shall be restricted to such as are not offensive by reason of the emission or odor, dust, smoke, gas, noise or vibration, or otherwise obnoxious such as by reason of the accumulation of materials or debris.
 - (3) The taking of not more than six (6) lodgers in any dwelling

- b) Size of Lots-No building, except one-story buildings of accessory use, shall be erected on a lot than one hundred (100) feet frontage and containing not less than 12,500 square feet provided that one (1) family dwelling and its accessory buildings may be erected on any lot which at the time this by-law is adopted is shown on a plan of land properly endorsed by the Planning Board of Mashpee.

2. **R-150 Residence District:**

History: Amended 3*3*1969 ATM, Article 59, approved by Attorney General 5-30-1969.

- (a) Use-No building shall be erected or altered and no building or premises shall be used for any purpose except
 - (1) Detached one-family dwelling.
 - (2) No building shall be used for the purpose of taking lodgers except where such use of a building lawfully exists at the time this by-law is adopted.
- (b) Size of Lots-No building, except one-story buildings of accessory use, shall be erected on a lot less than one hundred fifty (150) feet minimum average width and minimum frontage of one hundred twenty –five (125) feet and containing less than twenty-two thousand five hundred (22,500) square feet, provided that one (1) one-family dwelling and its accessory buildings may be erected on any lot which, at the time the by-law was adopted is separately owned.

History: Amended 3-7-1966 ATM, Article 21, approved by Attorney General 3-23-1966
- (c) Front Yards-No building shall be erected within thirty (30) feet of a street line, provided that no building need be set back more than the average of the setbacks of the buildings on the lots next thereto on either side, a vacant lot one hundred (100) feet or more in width or a lot occupied by a building set back more than thirty (30) feet.
- (d) No building to be erected closer than fifteen (15) feet from sidelines or rear line.

II. **Business District:**

- (a) **Use: Any use permitted in a residence District subject to the following restrictions:**

History: Amended 3-3-1969 ATM, Article 55, approved by Attorney General 5-30-1969

- 1. Size of lots-No building, except one-story buildings of accessory use, shall be erected on a lot less than seventy-five (75) feet wide and containing less than seventy-five hundred (7500) square feet.
- 2. Setback requirements-No building shall be erected within twenty (20) feet at the side line of a street, nor closer than ten (10) feet to the side lines or rear lines of the lot.

- (b) Additional uses permitted: retail stores, banks, professional offices, service outlets, automobile garages and salesrooms, theaters and restaurants.

History: Added 3-4-1968 ATM, Article 58.

History: The Attorney General having failed to act within ninety days as provided in Massachusetts General Laws, Chapter 40, Section 32, the by-law has been effective.

- (c) Any other business, storage, warehousing, or light manufacturing operations, provided that the Board of Appeals shall find:

-1- That adequate provision will be made for off-street parking, loading and unloading, and handling of vehicular circulation;

-2- That the proposed use will be so designed and operated that it will not be likely to be obnoxious, injurious, or hazardous to the neighborhood; and

-3- That the combination of setbacks and screening by planting or structures will be such as to insure against any detrimental affect upon existing or potential use of adjoining properties. A junk yard or yard for storing, wrecking or dismantling non-operable motor vehicles shall be considered to be adequately screened only if it is entirely surrounded by sight-impervious fence or evergreen planting.

- (c) No building shall be erected and no roadside stand or accessory use shall be placed nearer to the street line than the average of the setback of buildings on a lot next thereto. If there is no building on a lot next thereto, then the setback shall be twenty (20) feet unless there is a present existing setback, in which case the present existing setback shall prevail, except:

-1- No building in the business district on Route 28, Route 151 and Great Neck Road, south from the Rotary Circle shall be nearer than one hundred (100) feet to the street line.

No building in the business district on Route 130 and Great Neck Road, north of the Rotary Circle shall be nearer than fifty (50) feet to the street line.

History: Amended 3-4-1968 ATM, Article 59.

History: The Attorney General having failed to act within ninety days as provided in Massachusetts General Laws, Chapter 40, Section 32, the by-law has been effective.

III. Marine Area District

- (1) Establishes a Marine Area limited to the building, sale, rental, storage and repair of boats and for the sale of marine supplies.

IV. Industrial Area District

- (1) In any Industrial District, no building, structure or premises shall be used and no alteration, enlargement or extension of an existing building or structure shall be designed, arranged, or constructed which is intended or designed to be used in whole or in part except for one or more of the following purposes:

- (a) Any use permitted in a business district.

- (b) Lumber, fuel, feed and ice establishments, and contractor's yard.
- (c) Any manufacturing or industrial use.
- (d) Automobile dismantling or used parts yards and junk yards, if authorized by a special permit granted by the Board of Appeals.
- (e) No building permit shall be granted under this section for any use which might prove injurious to the safety or welfare of the immediate neighborhood, and destructive of property values because of any excessive nuisance qualities.

In any cases where the type of business or industrial operation necessarily produces noises, dust, or air-pollution which might adversely affect other owners or occupants in the neighborhood, it shall be the duty of the Building Inspector to refuse to issue a building permit without prior approval of the Board of Appeals; and a decision of the Board of Appeals approving the issuance of a building permit under this section by the by-law shall not issue unless the said Board has a prior written opinion from the Board of Health wherein the Board of Health may comment on the proposed business or industrial operation and make such recommendations as to it may seem desirable. The requirement of a prior written opinion from the Board of Health shall be deemed to be waived, however, if the same be delayed for more than seven days beyond the date of the hearing held before the Board of Appeals.

V. Cluster Zoning District

History: Added 3-4-1963 ATM, Article 61, approved by Attorney General 7-26-1963

- (1) If a plan of land, containing 100 or more acres in a single parcel or contiguous parcels (disregarding streets, public or private easements, and creeks or other natural barriers), of which not less than 60 acres is registered land, is submitted to the Board of Appeals upon a petition under Section 9.3; if the Board finds that development of the land shown on the plan on the cluster zoning principle will fulfill the spirit and intent of this By-Law without substantial detriment to the public good; and if a portion of the registered land, sufficient to constitute a dominant tenement, is deeded to the Town of Mashpee by a deed which states that the land thereby conveyed is benefited by restrictions imposed thereby upon all of the land shown on such plan, which restrictions;
 - (i) run, with respect to their burden, with all of the land shown on such plan;
 - (ii) are noted on or in the certificate or certificates of title to the registered portions of such land;
 - (iii) have a stated duration of not less than the maximum period permitted by Section 27 of Chapter 184 of the General Laws of the Commonwealth of Massachusetts;
 - (iv) contain the provisions for extension described in said section; and
 - (v) have the effect when considered in the aggregate, of;

- (a) Permitting no more than three dwelling units times the number of acres of registered land, and
- (b) Permitting no more than 870 square feet of area (including in such computation the sum of the floor areas of any building but excluding customer parking areas) times the number of acres of registered land to be devoted to commercial uses, other than recreational uses.

Then, all other provisions of this Section F, including but not limited to prohibitions on use and minimum lot size and frontage requirements shall not be applicable to the registered land so long as such restrictions are enforceable, except that no part of such land may be used for industrial or obnoxious uses. If any of the unregistered land is subsequently registered and effectively subjected to the foregoing restriction in favor of the dominant tenement, it shall thereafter be treated, for all purposes of this Section F, as if it had been so registered and subjected at the time of approval of the plan

- (2) For the purposes of this Section F.V., a "dwelling unit" shall not include detached buildings on any lot utilized solely for non-paying guests of the person or persons occupying the principal dwelling unit on the same lot, but it shall include each individual room or suite of rooms in any hotel or motel.

G. Administration

- 1. Board of Appeals-A Board of Appeals shall be appointed by the Selectmen. The Board shall consist of three members and each shall be appointed by the Selectmen to hold office for the term of three years or until his successor is appointed and qualified. In case of vacancy, inability to act, or interest on the part of a member of the Board, the Chairman of the Board of Appeals may designate an associate member pro tem to act in his place. Three associate members shall also be appointed by the Selectmen, to hold office under the same conditions as regular members.
- 2. The Board of Appeals may in appropriate cases and subject to appropriate conditions and safeguards make exceptions to the terms of the zoning by-laws in harmony with their general purpose and intent.
- 3. Special permits.
 - (a) Under all sections of the zoning by-law where the granting of special permits is specified, a petition shall be filed with the Board of Appeals.

- (b) A decision of the Board of Appeals on a petition for special permits shall be by a unanimous vote of the Board and shall be based on consideration of the following factors:

History: Amended 3-3-1969 ATM, Article 54, approved by Attorney General 5-30-1969

- (1) Whether or not the petition falls within the category specifically excepted by the by-law.
- (2) An evaluation of all the evidence presented at the hearing by the petitioner and interested parties as it relates to the fulfillment of the spirit and intent of the by-law without substantial detriment to the public good.

- (c) A special permit shall become void if not made use of in the intended manner within twelve (12) months.

4. Enforcement.

- (a) The Chief of Police, upon application of the Inspector of Buildings or a member of the Board of Selectmen shall cause complaint to be made before the proper court for any violation under this by-law. Anyone convicted of a violation under this by-law shall be fined not more than twenty (20.00) dollars.
- (b) The Board of Selectmen upon application of the Inspector of Buildings shall institute proceedings to enforce this by-law and to enjoin the construction, alteration, enlargement, reconstruction or use of any building, or the use of any premises in violation hereof.
- (c) The Inspector of Buildings may require any plans, documents or written statements under penalties to be filed with his office to verify the intended use of the premises.
- (d) The use of one (1) remedy shall not preclude a resort to any other remedy for the same violation.

H. Building Inspector

1. An Inspector of Buildings shall be appointed and may be removed by the Board of Selectmen, who shall fix his salary and provide for reimbursements for his incidental expenses in the performance of his duties.
2. The Inspector of Buildings shall enforce all laws and regulations relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided. He shall inspect all building operations within the town, and shall have the right of entry at reasonable hours. He shall require that all workmanship and all building materials shall be of good quality, and that types and methods of construction shall be in accordance with generally accepted standards of engineering practice in accordance with Section III Chapter 143 of the General Laws of the Commonwealth of Massachusetts. In case of violation of these regulations, he shall order, in writing, the suspension of the work, which notice shall state the conditions under which the work may be resumed.

I. Records and Reports

1. The Inspector of Buildings shall keep records of applications, permits issued, reports and notices or orders issued. He shall make a report to the Board of Selectmen annually, and at such other times as requested by said Board.

J. Application for Permits

1. It shall not be lawful to construct, alter, remove, demolish or change the class of occupancy of any building or structure without first filing with the Inspector of Buildings an application in writing and obtaining a permit.
2. An application for a permit shall be submitted in such form as the Inspector of Buildings may prescribe, and shall be made by the owner or his duly authorized representative.
3. Applications for permits shall be accompanied by such plans, drawings and other data as the Inspector of Buildings may require.

4. In existing buildings minor repairs may be made without filing or obtaining a permit.

K. Permits, Inspection Fees

1. It shall be the duty of the Inspector of Buildings to act upon applications for permit or plans without unreasonable or unnecessary delay.
2. The Inspector of Buildings shall inspect all buildings or structures during the construction to see that the provisions of these regulations are complied with and the construction prosecuted safely.
3. The fee for a building permit shall be established by the Board of Selectmen.

L. Unsafe Buildings

Upon notice of an unsafe building the Inspector of Buildings shall proceed in accordance with the provisions of General Laws, Chapter 143, Section 6 to 12, inclusive, and any amendments thereof.

M. Area Regulations

1. Filled Land. No person shall fill any area in the Town of Mashpee with earth, concrete, or other material to a depth in excess of five (5) feet without a permit from the Board of Selectmen. Said Board may require an applicant for such permit to furnish such plans or specifications as the Board may deem necessary and any permit issued hereunder may contain such provisions, conditions or limitations as the Board may deem proper. Any person aggrieved by any action of the Board of Selectmen hereunder shall have the right to appeal to the zoning Board of Appeals under the applicable provisions of the Zoning Laws.

History: Added 3-4-1963 ATM, Article 60, Approved by Attorney General 7-26-1963

Article III

Regulation of Trailer Coach Parks and Auto-Trailers

Section 1 No license shall be granted under the provisions of Chapter 140, Section 32A to Section 32L, inclusive, of the General Laws, except by the unanimous vote of the Board of Selectmen. No renewal of such license shall be granted by the unanimous vote of the Board of Selectmen.

Section 2 Rules and Regulations. The Board of Selectmen of the Town of Mashpee shall have the power to promulgate rules and regulations for the enforcement of the provisions of this ordinance, and for the purpose of insuring the maintenance of tourist camps and structures therein in a manner compatible with public health and safety.

Section 3 Trailers may be parked throughout the Town subject to the following regulations. For the purpose of the by-law "Trailer" is defined as follows: any of the various types of towed vehicles used for human habitation or for business purposes or adapted from such vehicles, but excluding vehicles used only for the transportation of materials, products or animals.

No person shall park, store, or occupy a trailer for living or business purposes except:

- (1) In a garage or other accessory buildings or in the rear half of a lot owned or occupied by the owner of the trailer (if placed so as to conform to the yard requirements for main building in the same zone), but its use for business and

living purposes is prohibited (unless temporary occupancy is permitted by the Boar of Appeals incidental to the construction of a permanent home).

- (2) The owner of the land may permit occupancy of such land by non-paying guests using a trailer, for living purposes, for a period not exceeding thirty (30) days in any calendar year. A permit for this purpose must be obtained from the Selectmen before the land can be occupied. No more than one guest trailer permitted with any one residence or on any one lot.
- (3) A temporary office incidental to a construction on or development of the premises on which the trailer is located.

History: Amended 3-4-1968 ATM, Article 57.

History: The Attorney General having failed to act within ninety days as provided in Massachusetts General Laws, Chapter 40, Section 32, the by-law has been effective.

Chapter III

Article IV

Sign Regulations

History: Added 3-4-1968 ATM, Article 60

History: The Attorney General having failed to act within ninety days as provided in Massachusetts General Laws, Chapter 40, Section 32, the by-law has been effective.

A. Purpose and Definition

The purpose of this article is to provide for the reasonable regulation and control of the erection and maintenance of signs and advertising devices within the Town to the end that the appearance and amenities of the Town may be preserved and enhanced, without unduly restricting the conduct of lawful enterprise. For this purpose, the following terms shall have the meanings, hereafter ascribed to them.

Sign	Any device, surface or framework on which words, symbols or other designs are inscribed or displayed an designed to call attention thereto, including flags, banners and the like.
Accessory Sign	A sign accessory to a permitted use or occupancy of the premises on which it is located, indicating the name of the occupant of such premises and/or the nature of the business conducted or the products sold thereon.
Off-Premises Sign	A sign advertising the name of the occupant or location of, or the nature of the business conducted or products sold on, a premises other than that upon which it is located.
Real Estate Sign	A sign advertising the sale or rental of only the premises on which it is located, and bearing the name, address and/or telephone number of the agent through which such sale or rental may be accomplished. Such sign shall include no other advertising material, and shall not be illuminated.
Window Sign	A sign affixed to the surface of a window (inside or outside) or displayed behind a window so as to attract attention from the outside. A sign shall be deemed a window sign it is within the display, or show caser area of the window, or within six feet of the inside surface of a window through which it is intended to be viewed.

Standing Sign	A sign standing or hanging free on its own support; such support may be attached to a building or fixed in or to the ground. Standing signs may have two sides or faces, showing in opposite directions.
Wall Sign	A sign fastened or affixed parallel to a wall of a building and not more than 6" therefrom.
Overhanging Sign	A sign, banner or other advertising device which hangs or extends over a public way, sidewalk or way in which the public has a right of access. Wall signs shall not be included in this definition.
Area	As appropriate to the context, the word "area" shall refer to the size, in square feet, not including frames, borders or any intermediate removable surface between a sign and a wall to which it may be affixed, however, the dimensions of any such farms, borders, etc. shall not be such as to result in over-all total areas (including such frames, borders, etc.) exceeding by more than 20% of the sign face areas authorized by this section.
Billboard	Any off-premises sign greater in area than forty (40) square feet.

B. Permits

1. Except as hereinafter provided, no sign shall be erected, altered or enlarged, or affixed to any building or placed on any premises without a permit issued by the Building Inspector. Such permits shall only be issued in conformance with the provisions of this Article of the by-law. Application for sign permits shall be accompanied by such plans, drawings and specifications as the Building Inspector may require. Such permits may be issued on a permanent basis for an indefinite period or on a temporary basis for a period not to exceed 180 days. A permit issued for an indefinite period shall become invalid when the product of activity advertised on the sign permitted has been discontinued or inactive for a period of one year. Fees for all sign permits shall be as the Board of Selectmen may, from time to time, determine.
2. The following types of signs shall be authorized by right, without the necessity of a permit therefor.
 - a) Signs bearing the name of the occupant of a dwelling, not to exceed two square feet in area. If the occupant is engaged in a profession, the sign may also display a word or words indicating such profession.
 - b) Signs offering accommodations for guests, not to exceed two square feet in area.
 - c) Real estate signs, not to exceed six square feet in area; such signs shall be removed forthwith upon sale or rental of the premises advertised.
 - d) Signs accessory to the use of the premises by a religious or educational institution, or by a governmental authority, not to exceed ten square feet in area.
 - e) Signs prohibiting trespass, hunting, and the like and signs warning of danger, such as "High Voltage", not to exceed one square foot in area.
 - f) Street name signs, and signs erected by the Town, County or Commonwealth for the direction and control of traffic.

- g) Window signs, however, the total area of such signs shall not be greater than 25% of the area of the window through which they are to be viewed. Window signs exceeding this area limitation are expressly prohibited.
- h) Signs on or adjacent to the entry of a multiple occupancy building listing the names, and/or occupations of the occupants thereof, provided that the size of such sign shall not exceed one square foot for each occupant.
- i) Signs designating historical places or points of interest, erected by governmental authority or by a duly chartered historical association, or the like, not to exceed six square feet in area.
- j) Signs indicating "Entrance", "Exit", "Parking", or the like erected on a premises for the direction of persons or vehicles, not to exceed two square feet in area.

C. Maintenance

All signs, whether erected prior to the effective date of this Article or not, and whether a permit is required or not, shall be maintained in a safe and neat condition to the satisfaction of the Building Inspector. Failure to correct a violation of this provision within 20 days after notice thereof shall constitute grounds for revocation of the permit or for removal of the sign if it was erected prior to the time when such permit was required, or if it is of a type for which no permit is required.

D. Prohibitions

1. Moving or flashing signs: No sign, any part of which is designated intentionally to move, and no sign illuminated by or including any flashing or occulting light shall be permitted. Strings of pennants or so-called whirligig, and the like shall be deemed to be included in this prohibition, which shall also apply to window signs, as defined herein. A sign which is designed for structural reasons, to align itself with the direction of the wind shall not be considered a moving sign.
2. Overhanging signs. No overhanging signs shall be permitted, however, this provision shall not apply to street name signs nor to signs or devices erected by the Town, County or Commonwealth for the direction and control of traffic.
3. Signs on trees, etc. Except for signs warning of danger or prohibiting trespass or the like, no sign shall be painted on or affixed to any tree, fence, utility pole, rock or ledge, nor painted or posted on any wall without an intermediary removable surface.
4. Neon signs. Except in Business or Light Industrial Districts, no sign shall include any neon or other electro excited gas filled tubing illumination.
5. Certain roof signs. No sign shall be erected on any roof so as to project above or beyond the roof line of the building on which it is erected. No sign shall be painted on any roof surface so as to be visible from the ground. However, where the space between the tops of store windows and the roof line is insufficient for a wall sign extending across the face of the building to contain the area authorized by paragraph F below, without projecting above the roof line, such sign may be permitted to extend above the roof line sufficiently to obtain such authorized maximum area.
6. Billboards, as defined herein.
7. Off premises signs, in other than Business or Light Industrial Districts, except as authorized by the Board of Appeals in accordance with the provisions of Section 27-i.

No off-premises sign shall be permitted which would be in violation of Sections 29-33 of Chapter 93 of the general laws.

8. Private signs on Town property, unless a permit for such a sign is authorized by the Board of Selectmen. No such authorization shall be given until after a duly advertised public hearing; any such signs shall conform in all respects to all other provisions of this section. Permits for such signs may be revoked at any time by the Board of Selectmen.

E. Non-Conforming Signs

Signs, which, at the time of the effective date of this Article, had been previously legally erected, but which exceed the maximum area provisions of this section, may be permitted for the life of such signs, however, signs which are in violation of the prohibitions in paragraph D of this section shall be modified so as to terminate such violation within one year from such effective date.

F. Size, Number and Location of Signs

1. In a Marine, Business or Light Industrial District, each place of business may be issued a permit for a sign, or signs as follows:
 - a) One or more wall signs for each wall fronting on a street or parking area, the total area of such signs not to exceed 105 of the pertinent wall area, including doors and windows therein. Such sign may not be directly painted on any wall, but may consist of individual letters attached to or cut into such wall; in such case, the area of such sign shall be figured on the basis of the perimeter required to contain all the letters, numbers or other devices comprising the sign. If a building be provided with a portico, projecting shelter, balcony, or the like the sign may be erected on such structure, provided it does not extend over a public way.
 - b) Permitted roof signs may be used in place of or in conjunction with wall signs, but in no case shall the total area of such sign or signs exceed 10% of the wall area below the roof sign.
 - c) In addition to the signs permitted under (1) and (b) above, where the area in front of building permits, there may be one standing sign for each street, frontage, not to exceed 16 square feet per side in area for each 50 feet, or fraction thereof, that it is set back from the street line.
2. In all other districts, each premises on which there exists or is permitted any business activity duly authorized by variance, exception or special permit, may be issued permits for signs in accordance with the provisions of sub-paragraph F-1, above, or of such lesser number or area as may be specified by such variance, exception or special permit, however, no neon signs shall be permitted.
3. Notwithstanding the foregoing provisions of this paragraph, certain special types of activities or situations are recognized for which such provisions may be modified and permits issued as follows:
 - a) Theatres: The marquee of a theatre shall be considered as comprising part of the wall area in determining the total sign area to be permitted.
 - b) Subdivisions: One subdivision name sign, not to exceed 20 square feet, may be permitted for each entry to a subdivision from a public way.

- c) Contractors, Developers: For each construction or development project, there may be issued a temporary permit for one standing sign, not to exceed 16 square feet in area, setting forth facts and names pertinent to the project. Such sign shall be removed forthwith when the project is complete.
- d) Gasoline Stations: Standard pump head signs of gasoline stations shall not be included in the total area of signs permitted, and no permit shall be required therefor, but they shall conform to the provisions of paragraph G below.
- g) Illumination: Except as otherwise prohibited herein, signs may be illuminated by any fixed steady light source, of such nature and in such manner that the brightness of the sign face does not exceed 100 lumens per square foot. Except for neon type signs, where permitted, such illumination, shall be so arranged that its source is not directly visible from any way or occupied building, and no illumination shall be of any color that might be confusing to traffic. Christmas lights shall not be deemed as coming within the provisions of this paragraph, but this paragraph shall apply to window signs.

**Chapter III
Article IV**

Rules and Regulations, Relative to the Dredging or Filling of Waterways and Marshlands Within the Town

History: Added 3-4-1963, ATM, Article 58, approved by Attorney General 7-26-1963

- Section 1 All applications for a permit to dredge or fill must conform with State and Federal statutory rules or requirements.
- Section 2 All applications must be in writing or on a form prepared by the Board of Selectmen and available at the office of the Town Clerk and shall be accompanied by a filing fee of ten dollars.
- Section 3 An application for a permit shall state:
 - (a) The name and address(s) of the owner(s) and occupant(s) of the land effected.
 - (b) The exact area sought to be dredged or filled, identifying by land marks or monuments or by an accurate plan or survey of the land, marsh, or waterway affected.
- Section 4 A public hearing shall be held on every application, which hearing shall be advertised at least seven days before the date of the hearing.
- Section 5 Any person violating the provisions of this By-Law shall be punished by a fine not to exceed \$20.00 for each offense.

March 1969

7.4 LAND SPACE REQUIREMENTS (Compiled from text of zoning bylaw)

Zoning District	Minimum Lot Size	Minimum Lot Frontage	Minimum Yard Depth			Maximum Building Height (4) Feet	Maximum % of Lot Coverage
			Front	Rear	Side		
Residence Districts							
R-125	12,500	100	(20)	(10)	(10)		
R-100	40,000	400	20	45	45		
R-150	22,500	125	30	15	15		
Marine Area District							
Business and Industrial Districts							
(a)	7,500	75	20	10	10		
(b/c)	(7,500)	(75)	20 or average	(15)	(15)		
(c - highways)	(7,500)	(75)	100	(15)	(15)		
1			50				
2							

ZONING REQUIREMENTS

YEAR	ZONE	LOT SIZE	FRONTAGE	SETBACKS			MAP	NOTES
				FRONT	SIDE	REAR		
1959	R-75	7,500	75	20	7.5			
	R-100	10,000	100	20	10		1959	
	R-150	22,500	150	30	15			
1967	R-75	7,500	75	20	10	7.5		
	R-100	10,000	100	20	15	10		
	R-150	22,500	150	30	15	15	1967	PRESUME MAP WRONG
1969	R-150	7,500	75	20	10	10		
1970	R-75	OUT						
	R-100	OUT						
	R-150	12,500	100	20	15	10		
	R-1	22,500	150	30	15	15		
1971	R-2	12,500	100	25	15	15		
	Cluster	10,000-15,000	75	50	15	20	1972	
	Apartments	5 Acres	200	50	50			
1975	R-1			40				
	R-1	15,000	100	25	15			
	R-2	22,500	125	40	15			
	R-3	40,000	150	40	15		1979	
1980	R-1	15,000	100	25	15	15		
	R-2	22,500	125	40	15	15		
	R-3	40,000	150	40	15	15		
	R-4	5 Acres	200	40	15	15		
	R-5	60,000	150	40	15	15		
1983	R-3M	40,000	150	40	15	15		
	R-3	40,000	150	40	15	15		
	R-4	4 Acres	200	40	15	15		
	R-5	60,000	150	40	25	25		
1985	R-3	40,000	150	40	15	15		
	R-5	60,000	150	40	25	25		
1987	R-3	40,000	150	40	15	15		
	R-5	60,000	150	40	25	25		
1988	R-5	80,000						

CLUSTER &
30% COVERAGE
MAD

(Zoning Maps on file: 1957, 1959, 1972, 1979, 1983, 1985, 1987)
 Planning Board note: 1960 40' right of way with 24' base of 6" good gravel or 4" hardener for 20' wide road of blacktop two coats.
 5.5 Any lot shown on a plan and lawfully in existence in compliance with the provisions of the Subdivision Control Law
 (Chapter 41 of the General Laws), as of January 1, 1977, may thereafter be built upon for residential use.

BOARD OF APPEALS - INFORMATION ON ZONING AND SUBDIVISIONS

AREA	PLANNING BOARD				ZONE	LOT SIZE	FRONTAGE	SETBACKS				MAP	NOTES
	S.P. APPL	S.P. SIGNED	DEF. APPL	DEF. SIGNED				YEAR	FRONT	SIDE	REAR		
Antunes	9/4/1991	1/15/1992	9/18/1991	2/5/1992	R-5	15,000	75	30	15	20	69	CLUSTER PB-SP	
Ashers	6/21/1989	3/21/1990	9/14/1987	4/18/1990		15,000	75	30	15	20		CLUSTER PB-SP	
Heights			6/13/1965	3/17/1966	R-75	7,500	75	20	7.5			NOT A CLUSTER	
Ashmet			12/15/1971	1/5/1972	R-2	12,500	100	25	15	15		NOT A CLUSTER	
Shores			6/19/1985	*8/21/85	R-2	22,500	125	40	15	15		NOT A CLUSTER	
Bayridge I				9/18/1985	R-75	7,500	75	20	7.5			NOT A CLUSTER	
Bayridge III					R-75	7,500		20	10	7.5		NOT A CLUSTER	
Brianwood/				1965									
Ash. Shore				1967									
Bright													
Coves													
Checkberry			5/1/1985	6/16/1985	R-2	22,500		40	15	15		NOT A CLUSTER	
Hill													
Child's River			2/5/1986	4/2/1986	R-3	15,000	75	30	15	20		CLUSTER ZBA-SP	
East				5/7/1986									
Child's River			ZBA	6/18/1986									
Child's River			ZBA	6/18/1986									
West			4/1/1986	5/21/1986	R-3	15,000	75	30	15	20		CLUSTER ZBA-SP	
Child's River			6/19/1996	8/21/1996	R-5	80,000		40	25	25			
Estates				9/18/1996				(20)	10	10		NOT A CLUSTER	
Clipper Ship			2/3/1966	5/12/1966	R-100	10,000		30	10	10			
Village				5/12/1966				Expired				CLUSTER PB-SP	
Cooper-			9/6/1989	1/3/1990	Was R-1			30	15	15		CLUSTER LAPSE	
Pederson			12/6/1989	12/6/1989	R-5	22,500		40	15	15			
Conaunet													
Highlands			1/5/1972	2/2/1972	R-2	12,500	100	30	15	15		NOT A CLUSTER	
Cotuit Corners				2/2/1972				Expired				NOT A CLUSTER	
Cranberry													
Hollow			12/19/1984	8/6/1986									
Cranberry													
Ridge			4/17/1985	6/5/1985	R-2	22,500	125	40	15	15		NOT A CLUSTER	
Deerfield			7/5/1972	8/16/1972		15,000*	75	30	15	20		CLUSTER NON SI	
Estates				8/16/1972	1972								
Dry Hollow					1972	15,000	75	30	15	20		CLUSTER	

BOARD OF APPEALS - INFORMATION ON ZONING AND SUBDIVISIONS

AREA	S.P. APPL	S.P. SIGNED	PLANNING BOARD			YEAR	ZONE	LOT SIZE	FRONTAGE	SETBACKS			NOTES
			DEF. APPL	DEF. APPRV	DEF. SIGNED					FRONT	SIDE	REAR	
Fox Run				1/7/1987	1/28/1997			150	40	15	15		NOT A CLUSTER
Great Hay			3/18/1987	6/17/1987	7/15/1987				30	15	20		LAPSE
Acres	3/18/1987	6/17/1987						75	30	15	20		CLUSTER PB-SP
Greenwood			6/20/1973	9/5/1973	9/5/1973			75	30	15	20		CLUSTER NON SP
Harbor Ridge			8/7/1996	10/2/1996	11/20/1996			150	40	15	15		NOT A CLUSTER
Highlands			7/2/1986	9/17/1986	12/3/1986			150	40	15	15		NOT A CLUSTER
Hollow Ridge				11/18/1987	12/16/1987								
Holland			11/5/1985	3/5/1986	4/16/1986			75	30	15	20		CLUSTER PB-SP
Mills	1/3/1986	3/5/1986						75	30	15	20		CLUSTER PB-SP
Hollies			5/1/1974	6/19/1974	6/19/1974	1974							
(Oldham Cr)													
John's Pond													
Estates			3/18/65	4/15/65	5/6/65								
Sec. 1			2/2/67	3/23/67	3/23/67								
Sec. 2			4/4/69	9/3/69	9/10/69	1969		75	20	10	10		NOT A CLUSTER
Sec. 3													
John's Pond													
Trust Estates			4/12/1965		4/15/1965	1965		75	20	10	7.5		NOT A CLUSTER
Lakeshore	ZBA	ZBA	8/13/1985	6/4/1986	7/2/1986			75	30	15	20		CLUSTER ZBA-SP
Lakewood													
Little Neck Bay				10/1/1962	10/1/1962								
(Tide Run)			1/23/1974	5/15/1974	*4/17/74	1973		75	30	15	20		CLUSTER NON SP
Mashpee			Feb-71	*1971	*1971								
Shores													
Meadow								100	25	15	15		NOT A CLUSTER
Haven				11/21/1984	11/21/1984								
Ockway Bay													
Estates													
Old Colony	1/16/1986	4/16/1986	1/16/1986	3/5/1986	4/16/1986	1986		75	30	15	20		CLUSTER PB-SP
Estates													

Land Court 30191A, 5/18/62

BOARD OF APPEALS - INFORMATION ON ZONING AND SUBDIVISIONS

AREA	S.P.			PLANNING BOARD			ZONE	LOT SIZE	FRONTAGE	SETBACKS			MAP	NOTES
	APPL	SIGNED	DEF. APPL	DEF. APRPV	DEF. SIGNED	YEAR				FRONT	SIDE	REAR		
Parkside			8/6/1985	11/6/1985	12/11/1996				40	15	15			NOT A CLUSTER
Pickeral Cove			2/19/1996	8/6/1986	9/3/1986	1986		15,000	75	15	20			CLUSTER PB-SP
Pimlico	2/19/1986	8/6/1986	9/2/1987	12/2/1987	1/6/1988			15,000	75	15	20			CLUSTER ZBA-SP
Heights	ZBA	ZBA							30	10	10			NOT A CLUSTER
Pirates Cove						1961			30	10	10			NOT A CLUSTER
Land Court 11408, various -- 30' Height requirement-overlay district														
Popponesset									25	15	15			PRE-ZONING
Punkhorn			7/18/1984	9/5/1984	10/3/1984				150	40	15			NOT A CLUSTER
Point							R-3							
Pleasant Park					9/9/1984			22,500		40	15			
Estates					2/4/1970	1970			100	20	10			NOT A CLUSTER
Quail			12/17/1969	2/4/1970										
Hollow														
Quashnet														
Highlands	8/7/1985	9/5/1985												
Quashnet									125	30	15	20		ZBA S.P. CLUSTER
Valley	4/16/1980	4/16/1980	1975											
Quashnet				3/19/1997	4/16/1997			15,000		40	15	15		NOT A CLUSTER
Woods														NOT A CLUSTER
Riverbend				9/2/1970	9/2/1970									
Sandatwood			5/16/1973	7/18/1973	8/15/1973	1973		15,000	75	30	15	20		CLUSTER NON SP
Santuit Pond														
Estates			7/7/1971	9/1/1971	10/5/1971	1971		13,000		30	15	15		NOT A CLUSTER
Santuit Woods														
Timberlane														
Shores Sec.				8/18/66	8/18/66									
A Sec. B			7/21/66	5/6/70	5/6/70					30	15	10		
Sec. C			7/16/69	7/17/74	7/17/74					30	15	15		
Sec. D			6/19/74	7/17/74	8/5/70					30	15	10		NOT A CLUSTER
Sarakummit			6/3/70	7/1/70	8/5/70									
Village				8/7/1985	9/3/1985			22,500	125	40	15	15		NOT A CLUSTER
Seabrook						1985		15,000	75	30	15	20		CLUSTER ZBA-SP
Meadow														

BOARD OF APPEALS - INFORMATION ON ZONING AND SUBDIVISIONS

AREA	S.P. APPL	S.P. SIGNED	PLANNING BOARD			YEAR	ZONE	LOT SIZE	FRONTAGE	SETBACKS			MAP	NOTES
			DEF. APPL	DEF. APPRV	DEF. SIGNED					FRONT	SIDE	REAR		
Seabrook Pines						1987		75	30	15	20		CLUSTER PB-SP	
Seabrook Shores						1984		75	30	15	20		CLUSTER ZBA-SP	
Seabrook Village						1971		75	30	15	20		CLUSTER NON SP	
Secosett Island						1960	R-100	10,000	20	10				
Sherwood Forest			9/20/1972		9/20/1972	1972	R-2	12,500	100	30	15	15		NOT A CLUSTER.
Shoestring Bay			11/20/1985		12/18/1985	1969								
South Cape Beach					5/6/1968	1989	R-100	10,000	100	20	15	10		PB-SP
Spring Hill						1987		75	30	15	20			CLUSTER PB-SP
West						1989		75	30	15	20			CLUSTER PB-SP
Sleepchase Slurgis						1986		75	30	15	20			CLUSTER ZBA-SP
Landing Sugar Pine			6/4/1985		6/4/1985	1985	R-3	40,000	150	40	15	15	20	NOT A CLUSTER
Circle								75	30	15	20			CLUSTER PB-SP
Summersa	2 ^b 7.5 7.5								30	10	10			
Teeberry					2/4/1985	1985		75	30	15	20			CLUSTER ZBA-SP
Three Ponds	3/17/1993	5/5/1993						60,000	40	25	25			
Vista Circle														
Willowbend Winslow Farms			9/6/1985	3/4/1986	4/6/1986	1985	R-1	15,000	100	25	15	15		CLUSTER PB-SP
Minimum lot size shall be 6,000 square feet with 20% lot coverage														
*Cluster - lots abutting common land may be reduced to 10,000 square feet														



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

Growth Management Administration

EXEMPTIONS FROM GROWTH MANAGEMENT SECTION 174-26

Child's River East	ZBA	SP	1986	
Child's River West	ZBA	SP	1986	
Holland Mills	PB	SP	1986	
Lakeshore	ZPA	SP	1986	
Mashpee Commons	ZBA	SP	1986	
New Seabury (SP Only)	ZBA	SP	1964	
Quashnet Valley	ZBA	SP	1974	
Seabrook Meadow	ZBA	SP	1984	
Seabrook Shores	ZBA	SP	1984	
Southport	ZBA	SP	1986	
Willowbend	ZBA	SP	1987	40-A 6 Paragraph 5 protection
Windchime	PB	SP	1987	40-A 6 Paragraph 5 protection
Life Inc.				Exempt under MGL 40 - A 3, educational

All building permits which are issued for rebuilding of existing buildings. Special permits for open space incentive developments and clusters is a use of the land. Once infrastructure such as road and utilities are installed the special permit use is executed. The project is exempt from any requirement to conform to subsequent amendment of the ordinance. It does not require house construction to commence immediately and continue until complete.



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

Growth Management Administration

EXEMPTIONS FROM GROWTH MANAGEMENT SECTION 174-26

Child's River East	ZBA	SP	1986	
Child's River West	ZBA	SP	1986	
Holland Mills	PB	SP	1986	
Lakeshore	ZPA	SP	1986	
Mashpee Commons	ZBA	SP	1986	
New Seabury (SP Only)	ZBA	SP	1964	
Quashnet Valley	ZBA	SP	1974	
Seabrook Meadow	ZBA	SP	1984	
Seabrook Shores	ZBA	SP	1984	
Southport	ZBA	SP	1986	
Willowbend	ZBA	SP	1987	40-A 6 Paragraph 5 protection
Windchime	PB	SP	1987	40-A 6 Paragraph 5 protection
Life Inc.				Exempt under MGL 40 - A 3, educational

All building permits which are issued for rebuilding of existing buildings.

CONTROL INDICATIONS

- G - COUNTS TOWARD GROWTH
- E 1 EXEMPT AS PREEXISTING SPECIAL PERMIT SUBDIVISION
- E 2 EXEMPT AS A REBUILD
- E 3 EXEMPT PER 40-A OR OTHER
- E 4 EXEMPT AS LOW INCOME

§174-47.Cluster development.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- A. The purposes of this Section are to encourage the preservation of open space, to reduce the impact of new development of Town's water quality and natural resources, to promote the more efficient use of land and municipal infrastructure, and to protect and promote the health, safety and general welfare of the inhabitants of the town.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- B. The Planning Board may grant a special permit approving a cluster development in any residential zoning district for a tract of land, containing at least twice the minimum lot area required in the applicable zoning district, in which some or all of the lots do not conform to the upland lot area, frontage, setback (except from water or wetlands) or yard requirements of Article VII of this chapter. For any parcel of five (5) acres or more in area, no subdivision in a residential zoning district may be approved except pursuant to a special permit for a cluster development under the provisions of this section or of Section 174-46, except that the Planning Board may waive this requirement upon written request from the applicant where, at its sole discretion, the Planning Board finds that the applicant has demonstrated that a cluster development will not achieve the purposes of this Section as effectively as a conventional subdivision. Approval shall require that the Planning Board makes a finding that the public good will be served and that the following criteria area met.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (1) The proposed plan will promote the purpose of this section and shall be superior to a conventional plan in preserving natural open space, protecting wetlands, wildlife habitats, water quality and other natural resources, utilizing natural features of the land and allowing more efficient provisions for public services. Where applicable, the open land shall be located in Primary or Secondary Conservation Areas designated by the Mashpee Open Space Conservation Incentive Plan and in areas of prime agricultural soils as identified in the Soil Survey of Barnstable County, Massachusetts issued by the United States Department of Agriculture in March 1993. Open space should also be laid out so as to maximize buffer areas to water bodies and wetlands and to promote and protect maximum solar access within the development.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (2) Except as provided under Subsections B.(9) and (10) below, the total number of lots for building purposes within the tract shown on the plan shall be not more than the number of times that the total upland area of the tract, in square feet, exclusive of water, wetlands as defined under MGL C. 131, §40, existing or proposed streets, roadway rights-of-way or easements twenty (20) feet or more in width and overhead utility rights-of-way or easements twenty (20) feet or more in width, is wholly divisible by the minimum lot size, in square feet normally required for the zoning district in which the tract is located.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (3) The lots for building purposes shall be grouped in a cluster or clusters, and within each cluster the lots shall be continuous. Open space shall be contiguous within the subdivision, or to other existing or proposed open space to the maximum extent practicable.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (4) The design process should follow this sequence: 1) delineation of topography, wetlands, prime agricultural soils, Primary and Secondary Conservation areas,

historic or archaeological sites and any active agricultural lands or facilities; 2) delineation of proposed open space; 3) delineation of potential building sites; 4) location and alignment of access roads and driveways; 5) general design of stormwater management and treatment facilities and; 6) establishment of lot lines. Application materials shall include mapping and other evidence showing how this design sequence was implemented.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (5) As part of its special permit decision, the Planning Board may, at its sole discretion, set a schedule of lot area, frontage, setback and dimensional regulations (except height and setbacks from wetlands and cranberry bogs as specified elsewhere in this Chapter) for building lots in the cluster development which differ from those otherwise required by Section 174-31. However, each lot shall have no less than twenty (20) feet of frontage on a public or private street. Said schedule of dimensional regulations shall also be included as a table or graphically on the definitive subdivision plan. Except when required to protect wetlands or other critical natural resource areas, the Board may not require setbacks greater than those normally required in the zoning district without written agreement of the applicant. Any proposed building lot shall contain adequate width and area to;
- 1) allow for a building footprint of a least 1000 square feet plus additional area to meet the setback regulations established by the Planning Board for the subdivision and any setback requirements from wetlands and cranberry bogs established elsewhere in this chapter;
 - 2) include sufficient area to accommodate required grade changes;
 - 3) provide adequate area for required parking and access drive;
 - 4) provide for stormwater management on the lot in conformance with the provisions of this chapter;
 - 5) provide for required wastewater disposal facilities and setbacks from wells or other features as specified by the Board of Health and;
 - 6) provide for reasonable privacy and landscape buffers between residences, including those within and adjacent to the subdivision.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (6) Provisions shall be made so that open space set aside under the provisions of this chapter shall be owned in one of the following ways:

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (a) Public ownership. The open space shall be conveyed to the Town of Mashpee and accepted by it for park or open space use.
 - (b) Ownership by nonprofit organization. The open space shall be conveyed to a nonprofit organization, the principal purpose of which is conservation of open space.
 - (c) Ownership by corporation or trust. The open space shall be conveyed to a corporation or trust owned or owned by the owners of lots or residential units within the development. Ownership of the corporation or trust shall pass the conveyance of the lots or residential units.
- (7) Within 180 days of the endorsement of the subdivision plan by the Planning Board, unless said time is extended by the Planning Board, and prior to the issuance of any building permit for lots in the subdivision or the release of any roadway covenant or other roadway performance guarantee for the subdivision, a deed restriction shall be executed, approved by the Commonwealth of Massachusetts and recorded at the Barnstable County Registry of Deeds, which shall provide that such land shall be restricted as specified below. If the open

space is not deeded to the Town, said restriction shall be enforceable by the Town. The non-profit organization, or corporation or trust, shall own and maintain the open space and shall not dispose of any of the open space by sale or otherwise, except that said corporation or trust may offer to convey such open space to the Town of Mashpee for acceptance by it for park or open spaces uses. Where open space is to be conveyed to the Town, it shall be made subject to a restriction enforceable by a nonprofit organization, the principal purpose of which is the conservation of open space, which shall be recorded at the Barnstable County Registry of Deeds, and which shall provide such land shall be restricted as specified below.

The open space set aside under the provisions of this chapter shall be:

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (a) Restricted to specific agricultural, open space or park uses approved by the Planning Board as part of its special permit decision and shall be left in essentially its undisturbed natural state, except for agricultural uses, pedestrian, equestrian or bicycle trails, minor clearing for water wells, pumphouses and related access, or stormwater bioretention systems and similar stormwater treatment facilities approved by the Planning Board, provided that such uses or activities, other than agricultural uses, may disturb no more than ten percent (10%) of such open land. Open space proposed to be reserved for agricultural use shall be permanently restricted by deed to those agricultural uses listed in Section 174-25 Table of Use Regulations, Subsections C.(1) through (5), which may include greenhouses, or barns, stables and similar structures for housing poultry or livestock specifically permitted by the Planning Board for inclusion within said open land, but not residences, garages, or other buildings.
History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.
 - (b) Except for lands reserved for agricultural uses, open to such allowed uses by at least the owners and occupants of the lots in the tract in the case of ownership under criteria in Subsection B(6)(c) above and to the general public in the case of ownership under criteria in Subsection B(6)(a) and (b) above.
History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.
 - (c) Restricted so that no structure, road, parking area, tennis court or similar development shall be erected thereon, except for pumphouses and similar minor public utility structures no more than fifteen (15) feet in height, and except for barns, stables or similar structures necessary for operation of an agricultural use permitted by Planning Board inclusion with said open land.
History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General 2-13-2007.
- (8) All wetland areas as defined in MGL C. 131, §40, plus a minimum of fifty percent (50%) of the total upland area of the tract (excluding roads, street layouts and other traveled ways), including all land within one hundred (100) feet of said wetland areas, shall be preserved as open land as described in criteria in Subsection B(6) and (7). Wetland areas and all uplands within 100 feet of any wetland area, at a minimum, shall be left in their undisturbed natural state.

Otherwise, the portions of the proposed open space to be reserved in their undisturbed natural state, or reserved for agricultural use, as well as the approximate location of existing or proposed structures within said open space, shall be specifically delineated on the recorded plan and shall require approval by the Planning Board as part of its special permit decision.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (9) For each 80,000 square feet in R-5 zoning districts, or 40,000 square feet in other zoning districts, of additional upland area set aside as permanently restricted open space, beyond the required fifty percent (50%), one additional residential lot may be created.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (10) One of each ten lots allowed as part of such subdivision under the provisions of Subsection B(2), shall be reserved for construction only of a permanently deed-restricted home meeting the low income affordability requirements of MGL Ch. 40B. One additional lot may also be created, which will become buildable for a single family residence upon completion and sale of said deed-restricted home, or upon donation of, and recording of a deed to, the lot set aside for such deed-restricted home to the Town or to a public or non-profit housing agency or trust. The permanently deed-restricted affordable home or lot shall not be subject to the growth management provisions of Section 174-26. Where completion and sale of said deed-restricted home or donation of said lot is not done within three years of the approval of the special permit, the additional lot shall be considered permanently unbuildable and part of the restricted open space.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

C. Application procedure.

- (1) The application to the Planning Board for a special permit for a cluster development shall include all application forms, fees and any other materials required by the Planning Board under Special Permit Regulations, along with mapping and other materials showing how the design sequence specified under Subsection B(4) was implemented. Applications shall be filed with the Town Clerk in conformance with the provisions of the General Laws and of Section 174-24.C of these by-laws. After submission of the required materials to the Town Clerk, the applicant shall forthwith deliver to the Planning Board a copy said materials, including the date and the time of filing certified by the Town Clerk. Once the mapping and materials specified under Subsection B.(4) have been prepared, and prior to preparation of formal plans and application materials, it is recommended that the applicant initiate one or more pre-application conferences with the Town Planner and plan Review Committee, along with an informal review by the Planning Board to discuss conceptual aspects of the proposed plan. The Planning Board may provide informal, non-binding suggestions to the applicant.

History: Amended 10-5-1998 ATM, Article 27, approved by Attorney General on 1-4-1999.

History: Amended 10-16-2006 ATM, Article 29 approved by Attorney General on 2-13-2007.

- (2) Within sixty-five (65) days, but no less than **twenty-one (21) days**, after the required application materials have been submitted, the Board shall hold a public hearing, notice of which shall be published and set by mail to all parties in interest in conformance with MGL C. 40A, §11.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (3) The Planning Board shall, within ninety (90) days following close of the public hearing, take final action to approve, approve subject to modifications or deny the special permit application. Failure by the Board to take final action upon the application for a special permit within said ninety (90) days following the date the public hearing is closed shall be deemed a grant of permit applied for.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (4) Approval of the special permit shall require a four-fifths vote of the Planning Board based on the application materials, any comments received from other town agencies or at the close of the public hearing, the criteria contained in Subsection B and required under Subsection 174-24 C.(2) and the best judgment of the Board regarding the accomplishment of the purpose of this section and the protection of the public health, safety and welfare. The Board may require any reasonable conditions to ensure that the criteria and purpose are met and that public interests are protected.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- (5) Special permits granted under this section shall lapse within two (2) years, which shall not include such time required to pursue or await the determination of an appeal under MGL C. 40A, §17, from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Construction of streets and utilities to service at least 50% of the lots in the development, or posting a performance guarantee with the Town in a form and amount acceptable to the Planning Board to ensure completion of construction of said streets and utilities, shall constitute "substantial use" for the purposes of this subsection.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- D. After a special permit for a cluster development has been approved by the Planning Board, the Board may approve a definitive subdivision plan based on the special permit approval and conditions and following the normal procedures specified in the Subdivision Regulations for definitive plans. The application for the special permit and a definitive subdivision plan may proceed concurrently. No preliminary plan submittal will be required.

History: Amended 10-16-2006 ATM, Article 29, approved by Attorney General on 2-13-2007.

- E. No building permit may be issued for any lot within a cluster development until the open space within the development has been deeded to the Town or, where the open space will not be deeded to the Town, until the deed restriction required by Subsection 174-47.B.(7) has been recorded, and evidence of such recording has been submitted to the Planning Board and Building Inspector.

History: Amended 10-7-1996, ATM Article 32, approved by Attorney General on 12-9-1996.

