

TOWN OF ASHBY

PLANNING BOARD

RULES AND REGULATIONS FOR SPECIAL PERMIT, REDUCED FRONTAGE LOT (Section 7.2.10, Zoning Bylaw)

ADOPTED: _____, 2008

\$20.00

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SECTION 1

GENERAL PROVISIONS

1.1 AUTHORITY

These Reduced Frontage Lot Approval Rules and Regulations are adopted by the Ashby Planning Board as authorized by M.G.L. Chapter 40A and the Ashby Zoning Bylaw as amended.

1.2 PURPOSE

The purpose of these Rules and Regulations is to set forth uniform Rules applicable to any Application for a Reduced Frontage Lot Approval and to establish uniform procedures for conducting the business of the Board in accordance with the applicable provisions of the Zoning Act and the Ashby Zoning Bylaw.

1.3 DEFINITIONS

In these Rules the following terms shall have the following meanings:

- 1.3.1 **Applicant:** Any person or such person's authorized representative who files an Application for a Reduced Frontage Lot Approval under the Bylaw.
- 1.3.2 **Application:** All Plans, Forms, Reports, Studies or other documents which are submitted to the Board under these Rules by an Applicant.
- 1.3.3 **Bylaw:** The Zoning Bylaw of the Town of Ashby, as amended.
- 1.3.4 **Parties in Interest:** The Applicant; abutters; owners of land directly opposite on any private or public street or way; and abutters to the abutters within three hundred feet of the property line of the Applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the Ashby Planning Board; and the Planning Board of every abutting city or town in the Commonwealth.
- 1.3.5 **Rules:** The Reduced Frontage Lot Approval Rules and Regulations (hereinafter the Rules) as presented herein and subsequently modified hereafter.
- 1.3.6 **Planning Board:** Ashby Planning Board
- 1.3.7 **Subdivision Rules and Regulations:** The Rules and Regulations Governing the Subdivision of Land in Ashby as amended and then in effect.
- 1.3.8 **The Zoning Act:** Massachusetts General Laws, Chapter 40A, as amended.

1.3.9 **Town:** the Town of Ashby.

1.4 **APPLICABILITY**

Any person or entity applying for a Special Permit under section 7.2.10 of the Zoning Bylaw, whether or not such person is governed by any other federal, state, or local permits, variances, approvals, or programs, shall comply with the provisions of these Rules.

1.5 **WAIVER OF RULES**

1.5.1 **Waiver from Compliance** – Strict compliance with these Rules may be waived when, in the opinion of the Planning Board, such waiver would substantially serve the intent of the Zoning Bylaw and provide adequate information to the Planning Board and the public regarding the proposed project.

1.5.2 **Request for Waiver from Rules** – If a waiver to a filing requirement is being requested, a written request for such waiver shall be made at the time of filing. If an oral request is made at a hearing or meeting, it shall be reduced to and submitted as a written request by the Applicant. Any request from an Applicant for a waiver from these Rules must be submitted, in writing, to the Planning Board prior to the close of the public hearing. Any request for a waiver from these Rules must clearly identify the provision or provisions of these Rules from which relief is sought and such request must be accompanied by a statement setting forth the reason or reasons why, in the Applicant's opinion, the granting of such a waiver would be in the public interest and consistent with the intent and purpose of the Bylaw and these Rules.

1.5.3 **Denial of Waiver Request** – If a requested waiver is not granted, the time for the submission of the required material or information shall be set by the Planning Board and said material or information shall be received prior to the close of the public hearing. If an extension of the time for conducting the public hearing or rendering a decision is necessary for consideration of this additional material or information, and such extension is not granted by the Applicant upon request of the Planning Board, such refusal may be grounds for denial of the Application.

1.6 **AMENDMENTS TO THE RULES**

The Rules may be amended by a majority vote of the Planning Board at or after a public meeting at which such amendment has been discussed.

1.7 **EFFECTIVE DATE OF THE RULES**

These Rules, or any amendment thereto, shall become effective upon vote of the Planning Board following a public meeting and the filing of the same with the Town Clerk.

SECTION 2

PRELIMINARY REVIEW

2.1 PRELIMINARY CONSULTATIONS

Consultations between an Applicant and the Planning Board prior to the filing of an Application with the Planning Board are recommended and can prevent delays in the processing of the final Application.

2.2 FORM OF REQUEST

At least 3 copies of all materials to be reviewed shall be provided to the Planning Board along with a letter requesting such a review and including the name, address, and phone number of a person who may be contacted concerning the review. All correspondence and communication must be sent through the Planning Board.

2.3 SCOPE OF PLANNING BOARD REVIEWS

The Planning Board will review preliminary materials in an attempt to avoid unnecessary technical deficiencies in the Application to be filed and to promote efficiency in the formal review and hearing process. The Planning Board will not be responsible for assuring the accuracy, correctness or thoroughness of any Application submitted for review. It is the responsibility of the Applicant to assure that any Application to the Planning Board is thorough, complete and accurate. Any incomplete Application may result in a denial of such Application on the grounds of an incomplete Application.

SECTION 3

FILING REQUIREMENTS

3.1 WHO MAY FILE

A complete Application for Reduced Frontage Lot Approval shall be made in writing on a form entitled "Reduced Frontage Lot Approval". Such form is available at the Town Hall. In the case where the Applicant is a person other than the record owner of the property, the Applicant shall be required to submit as part of the Application for Reduced

Frontage Lot Approval written certification executed by the record owner of the property that the Application is submitted with the knowledge and consent of the record owner.

All information required by any form as part of an application shall be furnished by the Applicant in the manner prescribed in these Rules and by such form unless a waiver is requested and granted as set forth above.

3.2 SUBMISSION OF AN APPLICATION

The Application shall be submitted to the Planning Board or the Office of the Ashby Town Clerk during posted business hours. The Applicant may request and shall be entitled to a written receipt for the materials submitted. The date of filing shall be considered the date upon which the Application or notice thereof has been delivered to or received by the Ashby Town Clerk as required in these Rules.

3.3 NOTICE TO TOWN CLERK

Should the Applicant submit the Application to the Planning Board, the Applicant shall, in accordance with the Zoning Act, promptly and without delay notify the Ashby Town Clerk of the submission of such Application.

3.3.1 Number of Copies of Application – Four (4) standard size copies, no larger than 30” X 42”, of the Application (including plan sheets) shall be required at the time of submission of an Application.

3.4 FILING FEE

Any Application for Reduced Frontage Lot Approval shall include a fee to cover the expenses incurred by the Town in reviewing the Application, excluding the cost of plan review by a consulting engineer for the Town which shall be billed separately. The fee is not refundable. The fee shall be submitted in check form and made payable to “Town of Ashby”. The amount of the fee shall be **\$125.00**.

3.4.1 Additional Review Fee Deposits – So that the Planning Board may make the findings required under the Bylaw and insure that the public safety will be protected, the Planning Board may hire outside engineering or legal to review an Application. To cover the cost of these reviews a review fee deposit may also be required of an Applicant at the time of submission or at any appropriate time in the review process.

3.4.2 Amendments – Applications for amendment to Reduced Frontage Lot Approval shall require the filing of a new Application for such purpose.

3.4.3 Legal Notices – The Applicant shall submit a copy of the Notice of Public Hearing utilized by the Applicant in publication of the Public Hearing notice.

SECTION 4

CONTENTS OF AN APPLICATION

NOTE: An Application for a Reduced Frontage Lot Approval which lacks information or is incomplete in any manner may be denied or seriously delayed. It is the responsibility of the Applicant to assure the accuracy, thoroughness and completeness of all information submitted to the Planning Board as part of an Application for Reduced Frontage Lot Approval.

4.1 APPLICATION FORM

Any Reduced Frontage Lot for which an Applicant seeks approval shall be submitted on the proper forms and shall be accompanied by a Plan prepared by a registered engineer or land surveyor drawn at a scale of 1" = 40' or such other as the Planning Board may require to show details clearly and adequately. The Plan must be plainly marked "Reduced Frontage Lot Plan" and shall be clearly and legibly drawn in dark lines on a white background, or similar medium acceptable for filing with the Registry of Deeds or Land Court to fully detail and explain the intentions of the Applicant. The details and contents of a plan where not otherwise specifically set forth herein may be provided in accordance with the requirements of the Subdivision Rules and Regulations.

4.2 CERTIFIED ABUTTERS LIST

A list of abutters and abutters to abutters that are Parties in Interest as defined in these Rules, taken from the most recent tax list of the Town and certified by the Assessors' Office shall be included in the submission of the Application. The Applicant shall pay any charges required by the Assessors' Office for the list.

4.3 SUBSTANTIATION OF FACTS

The Application shall be responsible for factually supporting all points relied upon in the Application concerning the proposal, including without limitation references for methodologies used in design calculations.

4.4 OTHER PERMITS AND VARIANCES

The Applicant shall list on the Application and provide copies of all variances, permits, and other special permits previously issued by Town boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Conservation Commission, the Board of Appeals, the Planning Board, the Board of Selectmen, the State Department of Public Works, the Army Corps of Engineers, and the

State Department of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act.

NOTE: If any other special permits are required, the Applicant is hereby strongly advised to make the applications for such additional permits concurrently with this Application.

4.5 WETLANDS

A statement signed by an engineer, surveyor or the Conservation Commission that at least ten (10) acres are not wetland areas as determined by 310 CMR 10.00 et seq.

4.6 COVENANT

The proposed covenant if other than the sample covenant included with these regulations. The covenant shall provide that no further subdivision of the land shall take place in perpetuity.

4.7 EVIDENCE OF TAX PAYMENT

The applicant shall provide evidence in the form of a statement from the Collector that taxes are current on the subject property and any other properties the applicant owns in Ashby.

SECTION 5

PUBLIC HEARING

5.1 PUBLIC HEARING NOTICE

- 5.1.1 **Publication of Notice** – Upon receipt of an Application for Reduced Frontage Lot Approval, the Planning Board shall set the date, time, and place of the public hearing, which shall be held within 65 days of the Application filing date but no sooner than 35 days from the Application filing date. Notice of the hearing shall be published by the Applicant in a newspaper of general circulation once in each of two (2) successive weeks. The first such publication shall appear not less than fourteen (14) days before the day of the hearing and a copy of the notice shall be posted in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the date of the hearing. The day of the hearing shall not be counted as one of the required fourteen days. In addition, copies of the notice shall be sent by certified mail (return receipt requested) by the Applicant to all Parties in Interest at least fourteen (14) days prior to the date of the public hearing. Certified mail return receipts and proof of publication shall be submitted to the Planning Board no later than the commencement of the public hearing.
- 5.1.2 **Content of Public Hearing Notice** – The Applicant shall submit as part of the Application a properly executed form entitled “Draft Legal Notice”. It is important that all of the information required by said form be submitted in complete form. Failure to submit information which is accurate could render the public hearing invalid and could cause serious delays in the processing of the Application.

5.2 APPEARANCE OF APPLICANT AT PUBLIC HEARING

An Applicant may appear on his own behalf or be represented by an agent or attorney. In the absence of an appearance, the Planning Board may decide the matter using the information it has received. In any case, the Planning Board shall not be responsible for presenting any Reduced Frontage Lot to the public at a public hearing or any other forum. It is the responsibility of the Applicant to present the Reduced Frontage Lot to the Planning Board and to the public. Failure to appear at a public hearing could seriously jeopardize the success of an Application.

5.3 PUBLIC HEARING PROCEDURE

The objective of a public hearing is to provide Parties in Interest the opportunity to have their opinion heard by a public decision-making body. In order to encourage informed opinions, it is important that the Plan in question be presented to the public in a thorough but concise manner. Unduly lengthy presentations do not inform the public any better than short, concise, accurate presentations. Also, lengthy presentations often take up the time which could be better used by the public to provide its comment. Therefore, these Regulations are intended to promote a well-prepared, brief, and accurate presentation of the Application for Reduced Frontage Lot Approval, thereby providing the public with maximum opportunity to speak on issues of concern.

- 5.3.1 **TIME OF HEARING – NO HEARING SHALL BEGIN BEFORE THE TIME PUBLISHED IN THE NOTICE.**
- 5.3.2 **Public Invited** – Any party whether entitled to notice thereof or not may appear in person or by agent or by attorney.
- 5.3.3 **Rules of Conduct** – The Chairman will conduct the hearing in accordance with applicable laws and rules for the conduct of such meetings and may administer oaths, summon witnesses, and call for the presentation of relevant documents. The Planning Board may retain any record which has been introduced in evidence for reference in its deliberations on the case.
- 5.3.4 **Notice of Public Hearing** – The Chairman will open each hearing by reading the notice as published.
- 5.3.5 **Applicant’s Presentation** – The Applicant will then present the Reduced Frontage Lot in accordance with the procedure for such presentations as set forth in these Rules.
- 5.3.6 **Time Limit for Presentation** – Because the time afforded the Applicant to present the Plan is limited, the Chairman shall not allow any person in attendance, including members of the Planning Board, to interrupt the Applicant during the presentation of the Reduced Frontage Lot.
- 5.3.7 **Questions by Planning Board Members** – When the Applicant has concluded the presentation, the Chairman will allow members of the Planning Board to ask questions of the spokesperson related to clarifying any points made during the presentation. In addition, members of the Planning Board may direct appropriate questions during the hearing.
- 5.3.8 **Questions from Public** – When all questions have been asked by members of the Planning Board, the Chairman will allow all those present to speak on the matter under consideration. Those who wish to speak shall, upon recognition by the Chairman, give their names and addresses, then proceed.
- 5.3.9 **Questions Addressed to Chairman** – Any comments or questions said by any person in attendance except members of the Planning Board shall be directed to the Chairman and

not directly to the Applicant, the Applicant's representatives or any other persons without the express permission of the Chairman.

- 5.3.10 **No Cross-Examination** – No cross-examination will be allowed, although questions seeking information and deemed relevant by the Chairman may be allowed at the discretion of the Chairman.
- 5.3.11 **Rebuttals** – Rebuttals may only be allowed at the discretion of the Chairman.
- 5.3.12 **Close of Hearing** – When all the facts have been presented and all persons wishing to speak on the Application have been heard, the Chairman will close the hearing in accordance with parliamentary procedure and inform the Applicant and others present that the Applicant will be notified, by certified mail, of the Planning Board's decision.
- 5.3.13 **New Evidence Limitation** – In no case shall the Planning Board allow new evidence to be admitted after the close of the public hearing. However, written information may be submitted after the close of the public hearing provided the information does not contain new evidence and is intended to clarify existing factual evidence. In any case the Planning Board shall have the right to refuse admission or receipt of information which in the Planning Board's opinion constitutes new evidence or which is otherwise deemed inappropriate.

5.4 CONTINUANCE OF PUBLIC HEARING

The Planning Board may continue a public hearing if the Planning Board finds that the continuance is necessary or appropriate to allow the Applicant or others to provide additional information. In such a case, the Chairman shall announce to those present, prior to the adjournment of the hearing, the specific date, time, and place where the hearing will be continued, and the subject matter to be discussed at the continued hearing. The Planning Board may require the Applicant to re-advertise or re-notify Parties in Interest, where it deems such an action to be in the public interest.

- 5.5.1 **Extension** – The period within which final action shall be taken may be extended for a defined period by written agreement between the Planning Board and the Applicant and a copy is filed with the Town Clerk.

SECTION 6

PLANNING BOARD ACTION

6.1 VOTING REQUIREMENTS

- 6.1.1 **Required Vote** – The concurring vote of a majority of the Planning Board shall be necessary to decide in favor of approving the Reduced Frontage Lot. A failure of the Planning Board to achieve the required vote shall be deemed a denial of such Application.
- 6.1.2 **Hearing Attendance Required for Action** – Only those members of the Planning Board who were in attendance at the public hearing may vote on the Application in question.
- 6.1.3 **Record of Proceedings** – The Planning Board shall cause to be made a detailed record of its proceedings, showing the vote of the Planning Board and whether a member of the Planning Board was absent or failed to vote, and setting forth clearly the reason or reasons for its decision and for its other official actions. Copies of such record shall be filed at the Planning Board and the Office of the Town Clerk.

6.2 WITHDRAWAL OF APPLICATION BEFORE PUBLIC HEARING NOTICE

Any Application may be withdrawn without prejudice by filing a properly executed form entitled, “Notice of Application Withdrawal”. Said form must be received by the Planning Board prior to the first publication of notice of the public hearing. No refund of fees will be provided if an Application is withdrawn.

6.3 WITHDRAWAL OF APPLICATION AFTER PUBLIC HEARING NOTICE

Withdrawal of any Application after the first publication of notice for the public hearing requires Planning Board approval. The request for such approval shall be made on a properly executed form entitled, “Request for Application Withdrawal”. Requests made in any other manner than that prescribed herein shall not be considered for approval by the Planning Board.

6.4 DECISION OF THE BOARD

The concurring vote of a majority of the Planning Board shall be necessary to decide in favor of granting Reduced Frontage Lot Approval. Only those members of the Planning Board who were in attendance at the public hearing may vote on the Application in question.

- 6.4.1 **Time Period for Deliberation** – The Board will act on each Application for Reduced Frontage Lot Approval within ninety (90) days from the date of the close of the public hearing.
- 6.4.2 **Notice of Decision** – The Board will inform the Applicant of the nature of its decision. The Board will send a full copy of its Decision to the property owner and the Applicant if other than the property owner, the Ashby Town Clerk and the Building Inspector upon receipt of evidence that the covenant has been recorded. The Applicant's delay recording the covenant shall not be construed as a constructive grant of the application.
- 6.4.3 **Recording of Decision** – The Decision issued by the Board must be recorded at the Registry of Deeds. Evidence of said recording must be submitted to the Planning Board and the Building Inspector. No construction shall be allowed to begin at the site which was the subject of the Application until evidence, satisfactory to the Building Inspector, has been presented to the Building Inspector that the Decision in question has been duly recorded as required herein.

6.5 APPEAL OF DECISION

Any person aggrieved by a decision of the Planning Board, whether or not previously a party to the proceeding, may appeal such decision in accordance with Section 17 of the Zoning Act.

6.6 TIME LIMITATION ON APPROVAL

In the case where Reduced Frontage Lot Approval is granted by the Planning Board, all other permits for the execution of the work shall be obtained and substantial use thereof shall be commenced, except for good cause, or construction begun, except for good cause, within two years from the date of filing of the Planning Board's Decision in the Office of the Town Clerk, unless the Planning Board otherwise provides for a different period of time in the Reduced Frontage Lot Approval. Said time shall not exceed two years.

6.7 EXTENSION OF TIME LIMITATION TO BEGIN WORK

- 6.7.1 **Extension for Good Cause** – A reasonable extension of said time may be granted by the Planning Board where good cause is shown after a public hearing has been conducted in accordance with the requirements of Section 5 of these Rules on the request for extension. Such extension or extensions shall not exceed two years beyond the original expiration date of the Reduced Frontage Lot Approval.
- 6.7.2 **Form of Extension Request** – Any request for an extension shall be made in writing to the Planning Board. Such request must be submitted to the Planning Board and a copy thereof to the Town Clerk at least sixty (60) days prior to the date when the Reduced

Frontage Lot approval is due to lapse. Failure to submit the request as prescribed above shall be due cause for the Planning Board to deny the requested time extension.

6.8 AMENDING AN APPROVED REDUCED FRONTAGE LOT

A previously granted Reduced Frontage Lot Approval may be amended upon written request to the Planning Board or upon the Planning Board's own motion. The Planning Board shall determine whether any request for further alterations to a site constitutes a minor modification and therefore does not require an amendment to the Reduced Frontage Lot Approval.

6.8.1 **Public Hearing** – Unless the original Reduced Frontage Lot Approval specifically allows certain modifications or alterations without the necessity of a new public hearing, all requests for amendments shall require a new public hearing to be advertised and conducted in accordance with these Rules.

6.8.2 **Applicable Requirements** – All of the requirements applicable to Reduced Frontage Lot Approval shall be applicable to an amendment to an approved Reduced Frontage Lot. Because of the variety of amendments which are possible, Applicants are advised to inquire whether they will need to submit any plans, reports or other information in addition to those submitted at the time the original Reduced Frontage Lot Approval was applied for. If any plans, reports or other information is required, then such plans, reports or other information will comply with the requirements set forth in these Rules.

6.9 VALIDITY

In the event of a conflict between the provisions of these Rules and Regulations and the provisions of the Zoning Act and the Ashby Zoning Bylaw, the provisions of the Zoning Act and the Ashby Zoning Bylaw shall apply.

6.10 FORMS

All mentioned forms may be obtained from the Planning Board or the Town Clerk.

FORMS

ASHBY PLANNING BOARD

Application for a Hearing

1. Action requested

___Application for Site Plan Review

___Application for a Special Permit, Reduced Frontage Lot

2. Name and Mailing Address of each appellant, applicant:

1.

2.

3.

Contact name and telephone

3. Application is for property located at:

Street Address

Map & Parcel

4. The undersigned is the:

___Owner

___Holder of a written option to purchase

___Agent of the owner (Please provide written evidence of the owner's assignment of agent.)

5. The record title to the land which is the subject of this case is in the name of

_____whose address is

by a deed duly recorded the South Middlesex Registry of Deeds in

Book_____, Page_____, or registered in the Land Court

Book_____, Page_____.

Signed as a statement of fact under penalty of perjury on this

_____ day of _____, 20____

The undersigned hereby apply to the Planning Board for a public hearing and Reduced Frontage Lot approval under the Town of Ashby Zoning Bylaw approving the Application as described above.

The undersigned hereby certify that the information on this Application and plans submitted herewith are correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

Date Signature of Applicant

OWNER’S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the Application presented above.

Date Signature of Owner

ASHBY PLANNING BOARD

DRAFT

LEGAL NOTICE

TOWN OF ASHBY PLANNING BOARD

PUBLIC HEARING

Notice is hereby given that the Ashby Planning Board will hold a public hearing on

_____, _____, at _____ P..M. in the Ashby Town Hall,

Main St., Ashby, Massachusetts on the Application of

_____ for property located at
(name of Applicant)

_____ Ashby, Massachusetts

for Reduced Frontage Lot Approval pursuant to Section 7.2.10 of the Ashby Zoning Bylaw in order to

permit _____
(describe subject matter of the hearing)

The land is further identified and shown as Parcel(s) _____ on

Assessor's Map(s) _____. All interested persons should attend the hearing.

A copy of the Application is available for review at the Office of the Town Clerk during posted business hours.

ASHBY PLANNING BOARD

PETITION FOR EXTENSION OF TIME PERIOD

Name of Applicant: _____

Applicant's Address: _____

Location of Property: _____

Nature of Application: _____

I hereby give my consent to the Planning Board to continue the public hearing to
_____ and hereby grant an extension of the
time period within which the Planning Board has to make a decision on the above referenced
Application until _____ .

Signature of Applicant: _____

Date of Signature: _____

The foregoing is hereby agreed to:

Ashby Planning Board

ASHBY PLANNING BOARD

NOTICE OF APPLICATION WITHDRAWAL
(Prior to Publication of Legal Notice)

Name of Applicant: _____

APPLICANT'S ADDRESS: _____

Location of Property: _____

Nature of Application: _____

- NOTES: 1. The Reduced Frontage Lot Approval Rules and Regulations specify that any Application for Reduced Frontage Lot Approval may be withdrawn without prejudice provided written notice has been received by the Planning Board prior to the first publication of notice of the public hearing.
2. No refund of fees will be provided if an Application is withdrawn.

Reason for withdrawal of Application: _____

I hereby withdraw the above referenced Application for Reduced Frontage Lot Approval and acknowledge that I bear the full and complete responsibility for any expenses incurred by the Planning Board in the review of the Application prior to withdrawal.

Signature of Applicant: _____

Date of Signature: _____

ASHBY PLANNING BOARD

REQUEST FOR APPLICATION WITHDRAWAL

Name of Applicant: _____

APPLICANT'S ADDRESS: _____

Location of Property: _____

Nature of Application: _____

- NOTES: 1. Withdrawal of any Application after the first publication of notice for the public hearing requires Planning Board approval.
2. No refund of fees will be provided if an Application is withdrawn.

Reason for withdrawal of Application: _____

I hereby withdraw the above referenced Application for Reduced Frontage Lot Approval and acknowledge that I bear the full and complete responsibility for any expenses incurred by the Planning Board in the review of the Application prior to withdrawal.

Signature of Applicant: _____

Date of Signature: _____

The Planning Board, by vote of a majority of its five members, hereby consents to withdrawal of the Application described above.

ASHBY PLANNING BOARD

(Dated)

REQUEST FOR WAIVER

Name of Applicant: _____

Applicant's Address: _____

Location of Property: _____

The sections from which the waiver is being requested:

1. _____
2. _____
3. _____
4. _____

Attach a separate sheet explaining the reason that each request would be in the public interest and consistent with the intent and purpose of the Bylaw and these Rules.

Signature of Applicant: _____

Date of Signature: _____

Request 1.	Approved	Disapproved
Request 2.	Approved	Disapproved
Request 3.	Approved	Disapproved
Request 4.	Approved	Disapproved

for Ashby Planning Board

GRANT OF RESTRICTIVE COVENANT

_____ (“Grantor”), hereby grants this Restrictive Covenant (the “Covenant”) to the Town of Ashby, a Massachusetts municipal corporation, acting by and through its Conservation Commission, with an address of Ashby Town Hall, 895 Main Street, Ashby, MA 01431 (“Grantee”).

WHEREAS, the Grantor is the owner in fee simple of a certain parcel of land located in Ashby, Massachusetts, shown as Lot _____ (the “Premises”) on a plan entitled _____ dated _____ 2008, made by _____ and recorded with Middlesex South District Registry of Deeds in Plan Book _____, Page _____ (the “Plan”);

WHEREAS, pursuant to a decision rendered by the Town of Ashby Planning Board, dated _____, entitled “_____” (the “Decision”), the Grantor is required to prohibit the further subdivision of the Premises;

WHEREAS, Grantor desires to limit the further subdivision of the Premises and comply with the Decision;

NOW THEREFORE, the Grantor hereby agrees and covenants, for itself, its successors and assigns, that the Premises shall be subject to the following covenants, agreements and restrictions, which are hereby imposed for the benefit of the Grantee and shall be administered and enforced by the Grantee and its assigns, duly designated employees, representatives or agents:

1. **Purpose.** The Premises shall not be further subdivided at any time in the future, and shall remain as shown on the Plan.

2. **Term.** The covenants contained herein shall run with the land and be enforceable in perpetuity against the Grantor, the Grantor’s successors in title to the Premises and any person holding any interest therein, by the Grantee, its successors and assigns and its duly designated employees, representative or agents. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Covenant, and the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee as its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree to execute any such instruments upon request.

3. **Enforcement.** The rights hereby granted include the right to enforce the covenants contained herein by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violation, including, without limitation, relief requiring restoration of The Premises to its condition prior to the time of the injury complained of (it being agreed that the Grantee has no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee. The Grantee shall have the option to enforce said restrictive covenants, but does not have the obligation to do so.

4. No Waiver. Any forbearance with respect to any violation of the covenants contained herein, or failure to enforce said covenants, for however long such forbearance or failure to enforce shall continue, shall not preclude enforcement at a later time with respect to the same violation or a subsequent violation. Any election by the Grantee as to the manner and timing of its right to enforce these restrictive covenants or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

5. Incorporation into Deeds, Mortgages, Leases and Instruments of Transfer. Grantor hereby agrees to incorporate this Covenant, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Premises, or any portion thereof, is conveyed.

6. Severability. If any court of other tribunal determines that any provision of this instrument is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

7. Recordation. Grantor shall record and/or register this Covenant with the Middlesex South District Registry of Deeds within fifteen (15) days of its date of execution and shall submit a certified Registry copy of the same to the Ashby Conservation Commission within fourteen (14) days of its date of recordation.

8. No Contest. The Grantors and their successors and assigns shall forego any action at law or equity attempting to contest the validity of any provision of the covenants contained herein and shall not, in any enforcement action, raise the invalidity of any provision of said restrictive covenant as a defense. If any provision of said restrictive covenant shall nevertheless to any extent be held invalid, the remainder shall not be affected.

9. Reimbursement of Cost of Enforcement. The Grantor and thereafter the successors and assigns of the Grantor covenant and agree to reimburse the Grantee for all reasonable costs and expenses (including without limitation counsel fees and disbursements) incurred in enforcing this Covenant.

10. Governing Law. The covenants contained herein shall be governed by the laws of the Commonwealth of Massachusetts.

For Grantor's title, see deed recorded with the Middlesex South District Registry of Deeds in Book _____, Page _____.

WITNESS the execution hereof under seal this _____ day of _____, 2008.

Grantor:

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss

On this _____ day of _____, 2008, before me, the undersigned Notary Public, personally appeared _____, _____ and proved to me through satisfactory evidence of identification, which was Massachusetts driver's license personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose

Notary Public
My commission expires:_____

346541/ASHY/0001

ACCEPTANCE OF RESTRICTIVE COVENANT

The foregoing Grant of Restrictive Covenant is hereby accepted by the Town of Ashby, acting by and through its Conservation Commission, pursuant to the authority granted to said Commission by G.L. c.40, §8C, this _____ day of _____, 2008.

TOWN OF ASHBY
CONSERVATION COMMISSION

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss

On this _____ day of _____, 2008, before me, the undersigned Notary Public, personally appeared _____, member of the Conservation Commission of the Town of Ashby, and proved to me through satisfactory evidence of identification, which was Massachusetts driver's license personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.as member of the Conservation Commission on behalf of the Town of Ashby

Notary Public
My commission expires:_____

APPROVAL OF ACCEPTANCE

The acceptance of the Grant of Restrictive Covenant by the Town of Ashby Conservation Commission, pursuant to the authority granted to said Commission by G.L. c.40, §8C, is hereby approved.

TOWN OF ASHBY
BOARD OF SELECTMEN

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss.

On this _____ day of _____, 2008, before me, the undersigned Notary Public, personally appeared _____, member of the Board of Selectman of the Town of Ashby, and proved to me through satisfactory evidence of identification, which was
 Massachusetts driver's license personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.as Selectman on behalf of the Town of Ashby.

Notary Public
My commission expires: _____