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Middleton Planning Board Rules & Regulations
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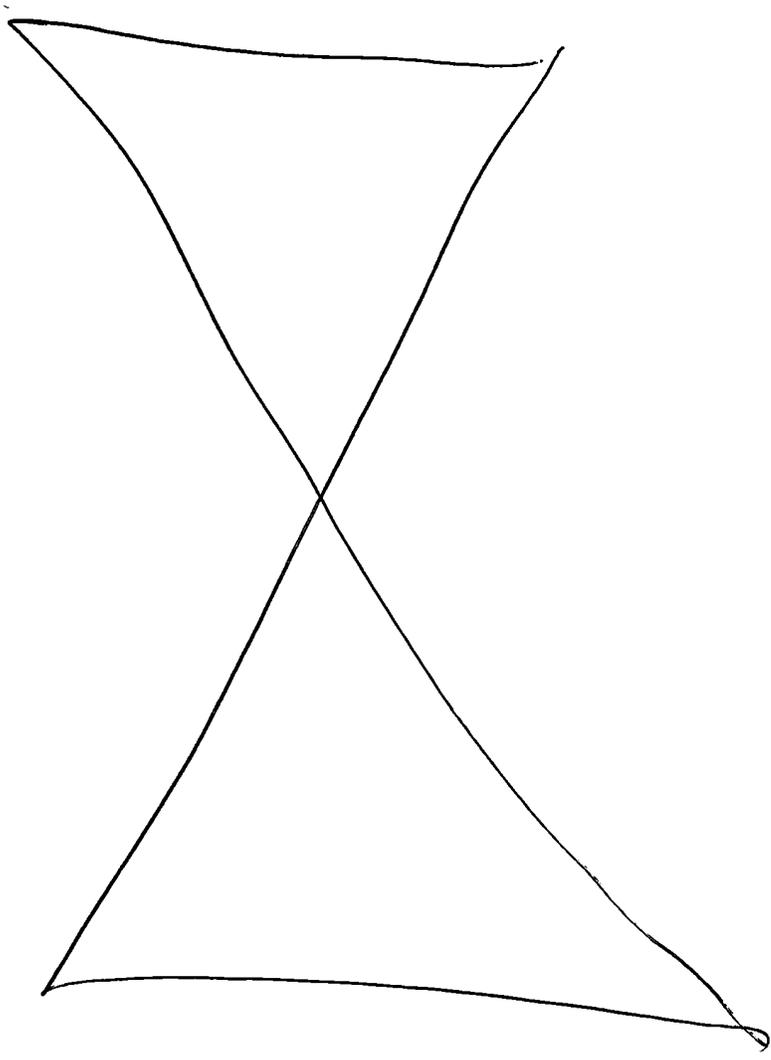
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John B. Quies

MIDDLETON ASSISTANT
TOWN CLERK

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§ 250-1. General provisions.

A. Authority.

Under the authority vested in the Planning Board of the Town of Middleton by MGL c. 41, § 81Q, said Board hereby adopts these amended "Rules and Regulations Governing the Subdivision of Land in the Town of Middleton, Massachusetts. "

B. Purpose.

These rules and regulations have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of Middleton, by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and of the Board of Appeals under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, panic and other emergencies; for ensuring compliance with the applicable provisions of the Zoning Bylaws; for securing adequate provisions of water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment and street lighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in Middleton and with the ways in neighboring subdivisions. It is the intent of the Subdivision Control Law that any subdivision plan filed with the Planning Board shall receive the approval of the Planning Board if said plan conforms to the recommendation of the Board of Health and to the rules and regulations of the Planning Board pertaining to the subdivision of land; provided, however, that the Planning Board may, when appropriate, waive, as provided for in § 250-158, such portions of the rules and regulations as is deemed advisable.

C. Planning Board procedures

- (1) Regular meetings of the Planning Board are held on the dates and times as posted with the Town Clerk. Except for sessions as provided for in MGL c. 39, § 23A, as amended, meetings of the Planning Board shall be open to the public to attend.
- (2) Anyone wishing to meet with the Board shall do so by appointment. To secure an appointment, all applicants shall notify the Clerk of the Board in writing by at least the Thursday before a regularly scheduled meeting. In such notice, the applicant shall state his name, address and a brief outline of the nature of the business to be discussed with the Board. The same procedure is recommended for applicants desiring to submit plans in accordance with the provisions of §§ **250-3B** and **250-4A** of these rules and regulations. Any person attending an advertised public hearing may address the Board at the pleasure of the Chairman without prior notice, and in doing so shall state his name, address and person representing if any.
- (3) All other actions of the Board shall require a majority vote of all the members. In the event of there being less than a quorum present at any scheduled meeting the Chairman shall reschedule a meeting as soon as practical thereafter.
- (4) All meetings of the Board shall be conducted formally under the direction of the Chairman. In the absence of the Chairman, a vote of the Board shall

appoint an acting Chairman. A majority of the members of the Board shall constitute a quorum, but less than a majority may vote to adjourn, subject to the meeting being rescheduled as provided above.

§ 250-2. Definitions.

As used in these rules and regulations, the following terms shall have the meanings indicated:

APPLICANT

The owner or his agent or representative or his assignee submitting a plan for approval under these rules and regulations.

BOARD

The Planning Board of the Town of Middleton.

FRONTAGE

The horizontal distance between the side boundaries of a lot, measured along the exterior line of the way or street serving as legal access to the lot.

LOT

An area of land in single ownership, with definite boundaries used, or available for use, as the site of one or more buildings.

PERSON

An individual, or two or more individuals, or a group or association of individuals, a partnership, a corporation or any other legal entity having common or undivided interests in a tract of land.

STREET, MAJOR

A street which, in the opinion of the Board, is being used or will be used as a thoroughfare within the Town of Middleton, which will connect communities or which will otherwise carry a heavy volume of traffic.

STREET, MINOR

A street which, in the opinion of the Board, is being used or will be used primarily to provide access to abutting lots and which will not be used for through traffic.

STREET, SECONDARY

A street intersecting one or more minor streets and which, in the opinion of the Board, is used or will be used to carry substantial traffic from such minor street(s) to a major street or community facility, and normally including a shopping center, industrial park, a large subdivision, a group of subdivisions, and any principal circulation street within such developments, or a street which will connect subdivisions.

SUBDIVISION

The division of a tract of land as defined in MGL c. 41, § 81L.

TOWN ENGINEER

The Superintendent of the Division of Public Works for the Town of Middleton, his representative or a person appointed by the Board of Selectmen to that position serving for the Planning Board.

ZONING BYLAWS and ZONING MAP

The Zoning Bylaws and Zoning Map of the Town of Middleton, as amended.

§ 250-3. Applicability.

A. Approval of definitive plan a condition of undertaking subdivision.

- (1) No person shall make a subdivision of any land in the Town of Middleton unless he has first submitted to the Board for its approval a plan of such proposed subdivision, showing the lots into which such land is to be divided and ways already existing or which are to be provided by him for furnishing access to such lots, and the Board has approved such plan in the manner hereinafter provided. After the approval of a plan the location and width of ways shown thereon shall not be changed unless the plan is amended, but the number, shape and size of the lots shown on a plan so approved may, from time to time, be changed without action by the Board, provided that every lot so changed still has frontage on a public way or way shown on a plan approved in accordance with the Subdivision Control Law of at least such distance and other requirements of the Zoning Bylaws required for the erection of a building on such lot.
- (2) No person shall proceed with improvements, or the sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a definitive plan of such subdivision has been approved by the Board as hereinafter provided.

B. Plan believed not to require approval. [Fee amount amended 9-10-2014]

- (1) Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and believes that his plan does not require approval under the Subdivision Control Law may submit his plan, original, drawn on polyester film sepia, five copies, and an application fee of \$50 plus \$100 per new lot created with his application Form A, in duplicate, to the Board, accompanied with the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission to the Board and a copy of said application.
- (2) If the Board determines that said plan does not require such approval, it shall, without a public hearing, endorse forthwith on the plans the words "Planning Board Approval under Subdivision Control Law Not Required. " Such action shall not be construed to indicate compliance with the provisions of the Zoning Bylaws. Said plan shall be returned to the applicant, and the Board shall notify the Town Clerk of its action.
- (3) If the Board determines that the plan does require approval under the Subdivision Control Law, it shall give written notice of its determination stating its reason(s) to the Town Clerk and the applicant within 14 days and return the applicant's plan. If the Board fails to act upon a plan filed under this Subsection B within 21 days after its submission, it shall be deemed to have been determined that approval under the Subdivision Control Law is not required.
- (4) Any person may submit his plan for approval as provided by law and the rules and regulations of the Board or he may appeal the determination of the Board in the manner provided in § 250-15A and MGL c. 41, § 81BB.

§ 250-4. Application procedure. [Fee amounts amended 9-10-2014]

All applicants are urged to have their plans reviewed by the Board's designee prior to submitting them to the Board.

A. Submission requirements.

- (1) Preliminary plan. A preliminary plan is strongly recommended, but not required, in order for all municipal departments and abutters to discuss and clarify any questions or problems created by such subdivision before a definitive plan is prepared.
 - (a) A preliminary plan may be submitted to the Board by delivery or registered mail to the Board care of the Town Clerk a completed Form B (see Appendix) and five copies of the plan. The date of delivery to the Town Clerk will be the date of submission.
 - (b) A preliminary plan which is submitted to the Board must be accompanied by a fee of \$100.
 - (c) The applicant shall, in any event, file a copy of Form B with the Town Clerk.

- (2) Definitive plan. A definitive plan as required under § 250-3A of these rules and regulations shall be submitted to the Board for approval.
 - (a) A definitive plan may be submitted to the Board by delivery or registered mail to the Board care of the Town Clerk a completed Form C (see Appendix) and five copies of the plan. The date of delivery to the Town Clerk will be the date of submission.
 - (b) The applicant shall, in any event, file a copy of Form C with the Town Clerk.
 - (d) A definitive plan which is submitted to the Board must be accompanied by the following fees:
 - [1] With a preliminary plan approved within the previous two (2) years: the fee shall be \$2,000 plus \$500 per lot shown on preliminary plan and/or \$1,000 per lot not shown on preliminary plan.
 - [2] No preliminary plan approved: the fee shall be \$2,000 plus \$1,000 per lot
 - [3] Definitive Subdivision Modification requests under MGL c4181-W: \$200 plus \$100 per lot changed
 - (e) A definitive plan shall not be considered submitted unless all of the provisions of §250-9 are met.

B. Review process.

- (1) Preliminary plan. The applicant may make a general presentation of his preliminary plan on the submission date. This presentation should be general in nature but also point out any unusual characteristics of the proposed subdivision. Detailed discussion of this plan will take place at a regularly scheduled meeting of the Board. At this time, the municipal departments and the Board will have reviewed the plan and visit and inspect the property of the proposed subdivision as provided for in MGL c. 41, § 81CC, as amended.
- (2) Definitive plan. The applicant may make a general presentation of his definitive plan on the submission date. This presentation should be general in nature and shall include a discussion of the environmental impact and evaluation statement. The Board shall schedule a public hearing on such definitive plan as soon as possible after the submission date.

C. Public hearings.

Before action is taken on a definitive plan, a public hearing shall be held by the Board. Notice of such hearing shall be given by the Board in each of two successive weeks by advertisement in a newspaper of general circulation in the Town of Middleton, the first notice being not less than 14 days before such hearing or in accordance with MGL c. 41, § 81T, as amended. The Board shall notify the abutters (as provided by the applicant in his submission) to the proposed subdivision by certified mail.

D. Action by the Board.

- (1) The Board may approve, disapprove or approve with modifications such preliminary or definitive plan. The Board shall take such action on a preliminary plan within 45 days after the submission date unless such time for action has been extended by the applicant and the Board. The Board shall take action on a definitive plan within 90 days after the submission date unless such time for action has been extended by the applicant and the Board. In cases where a preliminary plan was not submitted the Board shall take action within 135 days unless such time for action has been extended by the applicant and the Board. In the case of disapproval, the Board shall notify the applicant of the specific reason(s) for which the plan was disapproved.
- (2) The rules and regulations governing the subdivision of land in effect at the time of submission of such preliminary plan shall govern a definitive plan evolved from such preliminary plan, provided that such definitive plan is submitted within seven months of the submission of the preliminary plan.
- (3) The approval of a preliminary plan does not constitute approval of the layout submitted on the preliminary plan, but the preliminary plan shall serve as a guide to the applicant's preparation of a definitive plan which must be submitted as required under § 250-3A.
- (4) Notice of the Board's action must be given to the applicant and Town Clerk within the time specified unless such time has been extended by the applicant and the Board. The Town Clerk must be notified of any such extension(s). Failure of the Board to act within the time specified shall be considered as approval of such preliminary or definitive plan as the case may be.

§ 250-5. Approval not required plan.

Subject plans submitted to the Board shall be of minimum dimensions of 9 1/2 inches by 14 inches or a maximum size not to exceed 24 inches by 36 inches, shall be drawn on polyester film sepia and shall contain the following information:

- A. Identification of the plan by name of owner of record and location of the land in question, cross-referenced to the Assessors' Map number and parcel number.
- B. The statement "Approval Under Subdivision Control Law Not Required" and shall provide sufficient space for the date and signatures of a majority of the Board.
- C. Zoning classifications and location of any zoning district boundaries that may lie within the locus of the plan.
- D. In the case of the creation of a new lot plan, the remaining contiguous land area and frontage of the land in the ownership of the applicant shall be shown.
- E. Notice of any decision of the Zoning Board of Appeals, including but not limited to variances and exceptions regarding the land or any building(s) thereon.
- F. Abutters from the latest Assessors' records unless the applicant has knowledge of any changes subsequent to the latest available Assessors' records.
- G. The distance to the nearest road or to other permanent monument.
- H. Location of all existing buildings, including setback and side and rear dimensions.
- I. A locus plan of sufficient scale to clearly indicate the location of the property.
- J. The scale, date and the name, stamp and signature of the registered land surveyor who prepared the plan.
- K. The lot being subdivided must show bearing and distance of property lines. Curved lines shall have length of arc, radius and central angle shown.
- L. Areas of all parcels being subdivided must be shown.
- M. The status of the roadway on which the lots have frontage must be shown (i.e., public, county).
- N. Edges of existing traveled way and construction must be shown to determine the adequacy of the way.
- O. North arrow shall be indicated on the plan with magnetic or true designation.
- P. Indication of floodplain, if any, shall be shown on the plan.
- Q. Statement that the plan conforms to the rules and regulations of the Registry of Deeds must be noted on the plan.
- R. Space on the plan must be provided for Registry of Deeds action.
- S. Recorded easements, if any, must be shown on the plan with all lines dimensioned as outlined in Subsection K above.

§250-6. Providing Adequate Access to Existing Lots [Added 6-10-2009, amended 9-10-2014]

A. Frontage Requirement.

Prior to issuing a building permit for new construction, the Building Inspector must obtain a determination from the Planning Board that the lot upon which the building is being erected has frontage upon a street.

The Zoning Bylaw defines a street as "a way which, in the reasonable judgment of the Planning Board, has sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic existing and/or resulting from the development of abutting land and for the installation of municipal services to such land(s) and/or buildings located on or to be constructed on such land and which complies with one of the following criteria: (1) a way which the Town Clerk certifies is used as and maintained regularly and consistently as a public way by the Town to the same extent to which other public ways are maintained by the Town; or (2) a way shown on a plan previously approved and endorsed by the Planning Board and recorded at the Registry of Deeds; or (3) a way existing prior to the date on which subdivision control was adopted by the Town."

For a lot which has frontage on one of the aforementioned ways, which lot existed prior to the date on which subdivision control was adopted by the Town (March 15, 1955), but does not meet the construction standards described above (i.e., sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic existing...on such land"), the Planning Board hereby adopts rules and regulations by which an applicant may improve said way without submitting a definitive plan under the Board's "Rules and Regulations Governing the Subdivision of Land in Middleton, MA.

B. Applicability.

Prior to implementing these rules, the Board must find that the lot in question falls under the criteria described in the above paragraphs. To make this determination, the Board requires applicants to submit, as part of their application, the following information:

1. Existence of lot prior to subdivision control.

To demonstrate that the lot in question existed prior to the date on which subdivision control was adopted by the Town, the applicant shall provide a copy of the recorded deed and plan (if any) as recorded in the Essex County Registry of Deeds, which shows that the lot existed in its current form prior to March 15, 1955.

2. Existence of way.

a. Town Clerk Certification. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way which the Town Clerk certifies is used as and maintained regularly and consistently as a public way by the Town to the same extent to which other public ways are maintained by the Town," then the applicant shall provide a letter from the Town Clerk in which the above described certification is made.

b. Previously Approved Plan. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way shown on a plan previously approved and endorsed by the Planning Board and recorded at the Registry of Deeds," then the applicant shall provide a copy of the approved definitive subdivision plan or approval not required (ANR) plan as recorded in the Essex County Registry of Deeds, including the book and page number of said recording.

c. Existed Prior to Subdivision Control. If the applicant is attempting to demonstrate that the lot in question has "frontage on a way existing prior to the date on which subdivision control was adopted by the Town, then the applicant shall provide deeds, maps, and other documentation which shows that the road in question existed prior to March 15, 1955 and provide evidence that the

road has a history of being used as a traveled way.

C. Submittal requirements.

The applicant shall submit the following to the Planning Board:

1. Three contact prints of a plan* certified by a registered land surveyor per CMR 250, drawn to scale of at least one inch to 40 feet (or in lesser detail if approved by the Planning Board), signed and stamped by a registered land surveyor and civil engineer, and showing the following information:

- a. Street name, boundaries, North point, benchmarks, date, scale, legend, and title "Road Improvement Plan."
- b. Names of the applicant, surveyor, and engineer.
- c. Existing and proposed boundary lines of right-of-way.
- d. Existing and proposed traveled way within the right-of-way.
- e. Existing and proposed topography of street.
- f. A locus plan of the subdivision at one inch equals 1,000 feet, showing proposed street and its relation to the surrounding area.
- g. Typical cross section at one inch equals five feet horizontal; one inch equals one foot vertical. Typical cross section of road shall show the width of layout; width and pitch of pavement, including berms and shoulders; and the depth of base course and road pavements.
- h. Signature block and a space for the date of endorsement.

* Note: For an existing road that is adequate in all respects except that it lacks a proper surface, the Planning Board may determine that the plan does not need to be signed and stamped by a professional civil engineer, and need not contain the information described in paragraphs (e), (f) and (g) of this Section C.

2. A submittal fee of \$300.

D. Design standards.

The design standards for road construction in the Town of Middleton are described in the Planning Board's Rules and Regulations Governing the Subdivision of Land in Middleton. As a general rule, however, roads constructed under this Section (§250-6) need conform only to the following minimum standards.**

1. The width of the street right-of-way shall be no less than 20 feet.
2. The minimum width of the traveled way shall be no less than 16 feet. (3)
3. The maximum center-line grade shall be 12%.
4. When the grade exceeds 6% on the approach to an intersection, a leveling area with a slope of not more than 4% shall be provided for a distance not less than 50 feet from the intersecting street.
5. The road construction standards described in the Appendix of the Board's Subdivision Regulations.
6. For a dead-end street, a "T" or "Y" shaped turnaround, of a design satisfactory to the Planning Board.

**Note: In some instances, conditions may warrant either stricter or less restrictive standards than those listed above; such standards may be imposed by the Planning Board in any particular case in which such standard(s) is in the public interest and not inconsistent with the intent and purpose of these regulations.

E. Road surface requirements.

For a way to be of "adequate construction," it must be paved with bituminous concrete (asphalt) or macadam, and be in good condition. However, in certain situations the Board may allow a road surface such as lynn-pak, man-pak, processed gravel, porous bituminous concrete, or other all weather surface,

provided that:

1. The way in question will be serving no more than one additional lot; (2)
2. The grade of the way in question is not more than 5%; and
3. Any of the following three criteria are met:
 - a. The Conservation Commission has requested that the way in question not be paved to minimize the impact of the road on the surrounding wetlands; or
 - b. The way in question is an extension of, or located off of, a public or recognized private way that is not paved with concrete, bituminous concrete, or macadam, and which serves other house lots; or
 - c. The way in question serves as frontage for at least one other existing residential lot.

F. Length of road improvement required.

At a minimum, the applicant shall improve the roadway to within the design and road surface standards for a length equal to the required frontage for the lot in question. Based on the condition of the remainder of the subject road, as well as the condition of ways that provide access and egress to and from the subject road, the applicant may be required to make additional street improvement to ensure adequate access. The nature of said improvements shall be determined by the Planning Board.

G. Plan review and approval.

Plans submitted in accordance with the above requirements shall be reviewed and acted upon by the Planning Board within 60 days of the submittal. Prior to taking action the Board will hold a public hearing to obtain public comment on the plan. The hearing shall be advertised in a newspaper of local circulation at least seven days prior to the hearing. The cost of advertising the public hearing shall be borne by the applicant.

The Planning Board shall make a final determination on the application no later than 60 days after submittal, and said decision shall be filed with the Town Clerk within said time. If a plan is approved, it shall be signed by the Chairman of the Planning Board or his/her designee. If a plan is found to be unsatisfactory, the Planning Board shall deny the application, and the reasons for denial shall be included in the Board's decision. Once the applicant has addressed the reasons for disapproval and submitted such to the Planning Board, it may be approved by the Board without a public hearing.

H. Recording of plan.

The Planning Board's approval under these rules and regulations shall not take effect until an endorsed copy of the plan and decision, certified by the Town Clerk and executed by the developer, has been recorded with the Essex County South District Registry of Deeds. A certified copy of the recorded document shall be submitted to the Board prior to the issuance of a building permit.

I. Completion of improvements.

Upon the Chairman's endorsement of the Road Improvement Plan, the applicant may proceed with the improvements. The applicant shall notify the Planning Board or its designee when the improvements are completed. Within 14 days of such notice, the Planning Board or its designee, upon consultation with the Director of Public Works, shall notify the applicant in writing as to whether the road improvements have been satisfactorily completed. If they are found to be unsatisfactory, the Planning Board or its designee shall state the reasons in the letter to the applicant. Once the applicant has addressed the reasons for disapproval to the satisfaction of the Planning Board or its designee, the Planning Board or its designee shall advise the Building Inspector that the roadway provides adequate access to the applicant's lot.

§ 250-7. General requirements.

A. Basic requirement.

A subdivider shall observe all design standards for land subdivision as hereinafter provided. These standards shall be considered minimum standards and shall be varied from or waived as provided for in § 250-16. B.

B. Conformance with Master Plan.

Any proposed subdivision should conform as far as practicable to the proposals and intentions of the Middleton Master Plan as adopted in whole or in part by the Planning Board unless substitute proposals may be shown to the satisfaction of the Board to better serve the general area of the subdivision and the Town.

C. Compliance with zoning

The proposed plan shall be in compliance with the existing Zoning Bylaws, as amended, particularly relating to shape, area, width and frontage within a subdivision, before the Board will grant approval.

D. Access through another municipality.

In case access to a subdivision crosses land in another municipality, the Board may require certification, from appropriate authorities, that such access is in accordance with the Master Plan and subdivision requirements of such that adequate provision has been made to handle prospective traffic.

E. Reserve strips.

Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the Board's opinion, in the public interest.

F. Further subdivision.

In the event that a tract of land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the logical and economic extension of streets, utility easements, drainageways and public areas into such parcels.

G. Resubdivision.

The resubdivision of all or part of land covered by an existing plan shall show clearly that area or areas which are being replatted and shall show the file number of all previous plans of these same areas with dates of filing. All areas last subdivided more than seven years previous to the date of the application shall be subdivided in accordance with the Zoning Bylaws in effect.

H. Compliance with Stormwater Management Bylaw. [Added 9-10-2014]

A subdivider shall observe all design standards and plan requirements for Stormwater Management as required by section 204 of the Town Code: Stormwater Management Bylaw. Requirements include, but are not limited to, a stormwater management plan, erosion and sediment control plan, and an operation and maintenance plan. Please refer to Section 204-2.4.13 of the Stormwater Management Bylaw for specific requirements for meeting the Stormwater Management Permit exemption for subdivisions.

I. Number of dwellings per lot.

Not more than one building designed or available for use as a dwelling unit shall be erected or placed or converted to such use on any lot in a subdivision or anywhere else in Town without the consent of the Board unless allowed by the Zoning Bylaws. Such consent may be conditioned upon providing adequate ways and furnishing access to each site for such building in the same manner as otherwise required for lots in a subdivision.

§ 250-8. Preliminary plan.

A. Contents of preliminary plan.

- (1) A preliminary plan, which may be drawn in pencil, shall be at one inch equals 100 feet or larger scale. It shall include the following information:
 - (a) The subdivision name, boundaries, magnetic North point, date, scale, legend and title "Preliminary Plan. "
 - (b) The name(s) of the owner of record and the applicant, the stamp and signature of a registered land surveyor, if surveying information is shown, and the stamp and signature of a registered professional engineer, if the plan shows the design of road pavements, water pipes, sewerage or other utilities.
 - (c) The names of all abutters, as determined from the most recent tax list.
 - (d) The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner.
 - (e) The proposed system of drainage and utilities, including adjacent existing natural waterways, showing the approximate locations of all inlets, outlets, pipes and drains and other appurtenances to the proposed drainage system.
 - (f) The approximate boundary lines of all proposed lots, with the approximate areas and dimensions, within the subdivision.
 - (g) The names, approximate location, area and dimensions of existing nearby streets and ways.
 - (h) A topography plan of the subdivision with five-foot contour intervals and including a subdivision.
- (2) The applicant shall also submit a plan showing the location of the proposed subdivision drawn to scale as an insert on the plan he submits.
- (3) It is also recommended that the following be shown on a preliminary plan:
 - (a) The approximate boundary lines of all existing lots within the subdivision and those abutting the tract, with approximate areas and dimensions.
 - (b) The names, approximate location, area and dimensions of existing nearby easements and public areas.
 - (c) The proposed locations and depths of other municipal services and utility installations where possible.
 - (d) Existing outstanding features such as swamps, ledge outcrops, ponds, watercourses, existing easements, walls, fences, etc.
 - (e) The location of the bench mark based on National Geodetic Vertical Datum (NGVD).
 - (f) The identification of changes in zoning districts within the boundaries of the proposed subdivision.

B. Approval of preliminary plan.

After a preliminary plan has been reviewed as provided for under § 250-4B(1), the Board will take action as prescribed under § 250-4D, namely to approve, disapprove or approve with modifications such preliminary plan. The applicant is reminded that approval does not constitute approval of the subdivision.

§ 250-9. Definitive plan.

A. Contents of definitive plan.

- (1) The approval of a definitive plan is a condition of undertaking the subdivision of land as provided in § 250-3A. Such definitive plan shall be clearly and legibly drawn to a scale of one inch equals 40 feet. The plan shall be drawn in india ink (or an ink with equivalent cohesiveness) on polyester film sepia, single matte with a thickness of four mils and must have an opacity so as to allow consistent diazo and microfilm reproduction. The minimum letter size on plans presented for recording shall be 1/8 inch.
- (2) Drafting standards shall include the following: dimensions shall be in feet and decimals to the nearest hundredth; bearings shall be in degrees, minutes and seconds; the boundary of the subdivision shall be indicated in a solid heavy line, existing topography in dashed lines and proposed topography in solid lines; and if multiple sheets are being used, they shall be accompanied by an index sheet properly orientated and a title block on each sheet properly labeled and provide space for revision dates. The plan shall be drawn to a scale of one inch equals 40 feet.
- (3) Definitive plans shall contain the following information:
 - (a) The subdivision name, boundaries, magnetic North point, date of submission, legend and scales on each sheet; suitable space to record the action of the Board and Board of Health; suitable space for the Town Clerk's certification; reference to any covenant to be recorded with the plan; and a plan at a scale of one inch equals 800 feet showing the location of the proposed subdivision as an insert on the plan.
 - (b) The name and address of the owner of record, the name and address of the applicant, the stamp and signature of a registered land surveyor and the stamp and signature of a registered professional engineer.
 - (c) The existing and proposed lines of streets, ways, lots, easements, waterways and public or common areas within the proposed subdivision. (The proposed street names shall be shown in pencil until they have been submitted by the applicant and approved by the Board of Selectmen. This must be done before final approval can be granted.) The purpose of easements shall be indicated.
 - (d) A sketch on each lot indicating that a structure can be erected in accordance with the requirements of the Zoning Bylaws.
 - (e) The location of all permanent bounds properly identified as to whether existing or proposed. All bench marks shall be tied to and employ the National Geodetic Vertical Datum (NGVD) system.
 - (f) The locations, names and present widths of streets bounding approaching or within reasonable proximity of the subdivision.
 - (g) Existing and proposed topography at two-foot contour intervals.
 - (h) The length, radii, bearing and central angles to determine the exact location, direction and length of every street and way line, lot line and boundary line.
 - (i) The zoning classification(s), including floodplain zones of the area as indicated on the Flood Insurance Rate Map (FIRM), as amended, and referred to in § 235-8.1 of the Zoning Bylaws.
 - j) Any watercourses, marshes, ledge outcrops, walls, fences, and other

- significant natural features.
- (k) The size and location of existing and proposed storm drainage, sanitary sewerage and water supply systems.
 - (l) The soil conditions in a specific manner describing:
 - [1] The profile of soils showing seasonal high-water table.
 - [2] The adequacy of soils for the construction of roads.
 - (m) The storm drainage system, including invert and rim elevations of all catch basins and manholes, together with surface elevations of all waterways within the subdivision at one-hundred-foot intervals and the approximate depth of water at these points. Surface elevations and approximate depth of water shall be shown at each point where a drainage pipe ends at a waterway.
 - (n) The location of all of the following improvements unless specifically waived as provided for in § 250-16B: street paving sidewalks, street signs, streetlights, all utilities, above and below ground, curbs, gutters, street trees, storm drainage, public sewerage, if appropriate, all easements and fire alarm boxes.
 - (o) The profiles of proposed streets indicating the following information:
 - [1] A horizontal scale of one inch equals 40 feet.
 - [2] A vertical scale of one inch equals four feet.
 - [3] Existing center line in fine dashed line with elevations shown every so feet.
 - [4] Proposed center-line grades and elevations, with elevations shown every so feet, except that in vertical curves elevations shall be shown at twenty-five-foot stations.
 - [5] All elevations and bench marks shall refer to the National Geodetic Vertical Datum (NGVD).
 - [6] Rates of gradient shall be shown.
 - [7] Size and location of existing and proposed water mains and their appurtenances and surface drains and their appurtenances.
 - [8] Profiles shall show vertical location of drainage lines and other utilities as well as required new waterways. Sizes of all pipes shall be shown as well as inverts of all pipes at each manhole or catch basin, together with the invert elevations and rim elevation of each manhole or proposed drainage line within the subdivision or roadways.
 - (p) The cross section of typical sewer manhole and drainage manhole.
 - (q) The computations used in designing the storm drainage system.
 - (r) Any special construction details or detailed drawings or other pertinent information which the Board may request as is necessary to evaluate the feasibility of the proposed design of the subdivision.
 - (s) A certification clause signed by the preparer stating that he/she has conformed to the rules and regulations of the Registry of Deeds in preparing the plan.

B. Environmental impact and evaluation statement.

- (1) The applicant shall submit with his definitive plan an environmental impact statement, prepared by a registered professional engineer, the purpose of which is to enable officials of the Town to determine the methods which are to be used by the applicant to promote the environmental health of the community and to

minimize adverse effects on the natural resources of the Town.

- (2) The statement should include specific references to the appropriate plans and maps. The statement should be a technical document with references for all comments whenever possible.
- (3) In reviewing the statement, the Town boards will consider the degree to which water is recycled back into the ground; the maintenance and improvement of flow and quality of surface waters; the preservation or promotion of wildlife refuges, historic sites, unique geological, botanical and archaeological features, existing or potential trails and accesses to open space areas; and the health and safety of the inhabitants of the area.
- (4) The Board may waive any section or sections of the statement which it deems inapplicable to the proposed subdivision. The applicant should discuss the requirements with the Board prior to the preparation of the statement.
- (5) The statement shall include the following:
 - (a) Physical environment.
 - [1] A description of the general physical conditions of the site, including amount and varieties of vegetation, general topography, unusual geologic, scenic and historic features, trails and open space links and indigenous wildlife.
 - [2] A description of how the subdivision will affect these features.
 - [3] A complete physical description of the subdivision and its relationship to the surrounding area.
 - [4] A description of the method to be used during construction to control erosion and sedimentation and shall include, but not be limited to, the use of sediment basins and the type of mulching, matting or temporary vegetation; a description of the approximate size and location of land to be cleared at any given time and the length of time and exposure; and other control methods used.
 - (b) Human environment.
 - [1] A tabulation of proposed buildings by type, size (number of bedrooms, floor area), and ground coverage and a summary showing the percentage of tract to be occupied by buildings, parking and other paved vehicular areas and usable open space.
 - [2] A description of the type of construction and building materials to be used, if known.
 - [3] A description of the estimated traffic flow at peak periods and the proposed circulation pattern.

§ 250-10. Requirements for definitive plan approval.

A. Suitability of land.

- (1) No definitive plan of a subdivision of land shall be approved unless, after investigation and consultation with the Board of Health, the Board determines that the land can be used without danger to the public health.
- (2) The Board of Health shall report to the Board, in writing, its approval or disapproval of said plan within 45 days after the submission date. In cases of disapproval, the Board of Health shall make specific findings and the reasons for them and, where possible, make recommendations for adjustments. Failure of the Board of Health to make such a report shall be deemed approval by the Board of Health and shall be so noted on the plan. When the definitive plan shows that no municipal sewer is to be installed to serve any lot, approval of the Board of Health shall not be treated as nor deemed to be approval to construct an individual sewerage system on any lot.
- (3) The following minimum requirements shall be met in compliance with the National Flood Insurance Program:
 - (a) All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage; and
 - (b) Base flood elevation (the level of the one-hundred-year flood) data shall be provided for proposals greater than so lots or five acres, whichever is the lesser, for that portion within the Floodplain District.
- (4) Where any portion of a proposed subdivision lies within a wetland area, the Board may request the Conservation Commission to make a written report to the Board prior to disposition of the plan.

B. Suitability of design of system of ways.

The Superintendent of Public Works shall advise the Board as to the adequacy of the proposed streets within the proposed subdivision. No definitive plan shall be approved unless the ways and streets shown on the plan comply with the following requirements, and they shall be constructed in accordance with the standards specified in the appendix found in Section §250Attachment 1.

Editors Note: The Construction Standards are included at the end of this chapter.

(1) Location and alignment.

- (a) The street system shall conform to the approved preliminary plan, if any.
- (b) All streets in the subdivision shall be designed to provide safe vehicular travel. Consideration shall be given to the attractiveness of the layout in order to obtain the maximum livability and amenity of the subdivision.
- (c) All streets which are part of the main highway system of the subdivision shall, as far as possible, be contiguous with existing links in the existing Town system and shall provide a convenient system, with connections adequate to ensure free circulation of vehicular travel.
- (d) Connections with incomplete extensions of adjacent ways shall be accomplished. When adjoining property is not subdivided, temporary dead-end streets shall be laid out to the perimeter of the subdivision to permit future projection and shall conform to the provisions for alignment, width and grade that would be applicable to such streets if extended. Such dead-end streets shall be

- provided with a turnaround.
- (e) Cul-de-sac streets shall not exceed 500 feet in length and shall be provided with a turnaround which shall have a property line diameter of 120 feet.
 - (f) The minimum center-line radii of streets shall be 100 feet. Adequate sight distance shall be provided for all streets and intersections.
 - (g) No street shall intersect any other street at less than a sixty-degree angle.
 - (h) Streets entering opposite sides of another street shall be laid out either directly opposite each other or with a minimum offset of 250 feet between their center lines for major and secondary streets and no less than 125 feet between their center lines for minor streets. Intersections of major and secondary streets with existing major streets will not normally be allowed at intervals of less than 400 feet. Subdivisions of more than 25 lots will be required to have more than one access to an existing secondary street or to a proposed secondary street which is to be built in conjunction with the proposed subdivision.
 - (i) The sight distance at the intersection of all streets shall be 300 feet in either direction measured from the side lines of the intersecting streets.
- (2) Width.
- (a) Major streets shall have a minimum right-of-way of 60 feet.
 - (b) Secondary streets shall have a minimum right-of-way of 50 feet.
 - (c) Minor streets shall have a minimum right-of-way of 40 feet.
 - (d) Property lines at all right-of-way intersections shall be cut back to provide for a curb radius on the roadway of not less than 25 feet, except where the angle of intersection varies more than 10° from a right angle, in which case the radius of the curve connecting the acute angle may be less and the opposite radius must be correspondingly greater.
- (3) Grades.
- (a) The minimum grade for all streets shall not be less than 1%.
 - (b) The maximum grade at all intersections shall be 2% desirable, but shall not exceed 3% for a distance of 64 feet from the beginning of intersection.
 - (c) The maximum grade for major streets shall not be more than 6%.
 - (d) The maximum grade for secondary streets shall not be more than 9%.
 - (e) The maximum grade for minor streets shall not be more than 9%.
- (4) All street names shall be approved by the Board of Selectmen prior to the Board granting approval of a definitive plan.
- (5) Driveways.
- (a) Driveway cuts and streets shall not intersect within 55 feet of each other. This distance shall be measured from the side lines.
 - (b) Each lot shall be served by its own driveway and shall not be shared with any other lot. The driveway cut for each lot must be on the frontage of that lot.
- (6) Sidewalks. A bituminous sidewalk shall be constructed on both sides of all streets within a subdivision in accordance with the standards in the Appendix. At each intersection a wheelchair ramp shall be constructed which must be approved by the Building Commissioner.
- (7) Easements.
- (a) All easements shall have a minimum width of 30 feet and the limit located by bearing and dimension, with the exception of watercourses.

- (b) Streams and watercourses shall be provided with a drainage easement conforming substantially to the line of its course, but not less than 30 feet in width. Parallel streets or pedestrian ways and/or appropriate access may be required in connection therewith. The relocation of streams or watercourses into open channels or covered culverts shall be kept to a minimum. Any stream diversion or relocation shall be done in accordance with the Massachusetts Wetlands Protection Act, *Editor's Note: See MGL c. 131, §§40 and 40A.* and the applicant shall be required to obtain approval of the Middleton Conservation Commission.
- (c) Utility easements shall generally follow the rear or side lot lines.
- (d) Sight distance easements shall be required at all intersections and conform to § 235-5.4.5 of the Middleton Zoning Bylaws, the purpose of which is to eliminate the installation of solid fences and shrubbery or any obstruction which would impair the sight distance.

C. Suitability of design of surface water drainage system.

A definitive plan of a subdivision shall include a detailed system designed to adequately dispose of surface water and to provide for minimum of subsequent maintenance. The design shall be governed by the following requirements and shall be constructed in accordance with the standards in the Appendix.

Editors Note: The Construction Standards are included at the end of this chapter.

- (1) Content. A drainage plan prepared by a registered professional engineer and showing existing and proposed streets, lots, five-foot contours and other pertinent data; the drainage limits and acreage of the area tributary to each stormwater inlet and culvert; location and type of inlets proposed; and location, size, length, invert elevations and slope of proposed drains and culverts. Structural details of inlets, manholes, pipes, headwalls and all other drainage structures required to complete the plan shall be attached and meet the Commonwealth of Massachusetts standards.
- (2) Drainage design and criteria.
 - (a) The basis for design of drainage systems shall be by the rational method. The hypothetical rainfall for the design and analysis of storm drainage structures shall be as follows: ten-year storm for roadway structures; twenty-five-year storm for all culverts and open channel flow; and one-hundred-year storm for drainage systems for which ponding or storage basins are designed or encountered. The above rainfall frequency curves will be in accordance with the United States Technical Paper 40 or most recent publication from the United States Weather Bureau.
 - (b) The Commonwealth of Massachusetts standard catch basin will be used and assumed, for design purposes, to receive a maximum of 1.5 cubic feet per second with the required granite curb inlet.
 - (c) Runoff quantities shall be determined by the Rational Formula under conditions of full development or other methods, if approved by the Superintendent of Public Works.
 - (d) Velocities in storm drains shall not be less than 2.5 feet per second and no greater than eight feet per second.
 - (e) Street drainage pipes shall be a minimum of 12 inches in diameter. Culverts shall be a minimum of 18 inches in diameter.

- (f) Storm drain capacities shall be calculated by the Manning Formula.
Recommended "n" values are as follows:

Surface	"n"
Reinforced concrete pipe	0.015
Natural channels, clean, straight, no pools	0.030
Natural channels, with weeds and stones	0.035
Natural channels, winding, pools and shallows, weeds and stones	0.045
Natural channels, sluggish, weedy, with deep pools	0.065
Natural channels, very weedy and sluggish	0.112
Man-made channels, smooth earth	0.018
Man-made channels, firm gravel	0.020

- (g) Catch basins shall be installed at all intersections, including those with existing streets, at all low profiles, at a maximum spacing of 300 feet from other catch basins or from roadway crests. Manholes shall be provided at points of change in grade, change in direction, change in size of pipe or at points of entrance to the system by pipes over four inches in diameter. The maximum spacing of drain manholes shall be 300 feet. All storm drains shall have a headwall or a supported flare pipe section at the entrance and exit sections with an accepted section of riprap.
- (h) All material and construction methods used shall meet the current Commonwealth of Massachusetts Department of Public Works Standard Specifications for Highways, Bridges and Waterways and the Town of Middleton general specifications as amended from time to time.
- (i) Drainage pipe shall be reinforced concrete or equivalent strength of properly engineered sizes and strength as approved by the Superintendent of Public Works and shall have a minimum of three feet cover in paved or other vehicular roads. Where material other than reinforced concrete pipe is to be employed, the applicant shall so state in a note on the plans submitted to the Board for approval.
- (3) Runoff computation. A stormwater runoff computation for each section of drain culvert which includes the location of the section, the increment and total area tributary to the section, the percentage of impervious surfaces, the runoff per acre, the design runoff and the size, slope, velocity and capacity of the pipe serving the section in tabular form is to be included.
- (4) Terminations. All surface drainage shall terminate into flowing water or into a riprapped ditch section if on subdivided land or into a ditch section connected to flowing water except when, in the opinion of the Board, such termination is

undesirable. Sufficient easements must be procured to comply with the requirement.

- (5) Pitch. The minimum pitch of all storm or surface water drains shall be 0.5%, and the minimum size of pipe shall be 12 inches in diameter.
- (6) Certification. A certificate signed by a registered professional engineer shall be submitted, with his seal, which states that the drains, culverts and appurtenances have been constructed in accordance with the drainage plan. The certificate shall be submitted after all drainage facilities have been completed and have been checked and approved by the Engineer. An as-built plan shall be submitted at this time and shall show all drainage structures as finally built. Final approval of the drainage plan by the Board is contingent upon receipt of the certificate and as-built plan.

D. Public open spaces and protection of natural features.

- (1) The Board may require that an area for open space, parks or playgrounds be set aside within a proposed subdivision. Such areas shall be of reasonable size, but generally not less than 5% of the total area of the proposed subdivision. The minimum area acceptable for this purpose shall be one acre. The Board may by appropriate endorsement on the plan require that no building be erected upon such area for a period of three years without its approval. This area shall be made available for purchase by the Town with just compensation to the owner thereof. Failure of the Town to purchase the land within three years from the date of final approval shall free the owner from this restriction.
- (2) Any open space, park or playground shall provide at least 50 feet of continuous frontage on a street, and pedestrian ways will normally be required to provide access from each of the surrounding streets, if any, to which the open space, park or playground has no frontage. Areas so designated shall be left in an undisturbed condition unless otherwise agreed to by the Board.
- (3) Due regard shall be shown for all natural features, such as large trees, watercourses, scenic points, historic sites and similar community assets, which, if preserved, will add attractiveness and value to the property.

E. Street numbering.

Street numbers for all lots within the proposed subdivision shall be assigned by the Building Commissioner. *Editors Note: See also Ch. 114, Buildings, Numbering of.*

§ 25 0-11. Security.

Before endorsement of its approval of a definitive plan, the Board shall require that the construction of ways, the installation of municipal services and other require improvements be secured by one, or in part by one and in part by the other, of the methods described below. Which method may be selected and from time to time varied by the applicant. In any event, the method selected must be approved by the Town Counsel as to form.

A. Bond or surety.

- (1) The applicant shall file a proper bond or a deposit of money or negotiable securities in an amount sufficient to cover the cost of all or any of the improvements required. The amount shall be determined by the Board with the advice of the Superintendent of Public Works. Said bond or surety to be deposited with the Town Treasurer-Collector.
- (2) Said bond or surety shall be solely in the name of the Town of Middleton.
- (3) If the Board determines at any time during the construction of the improvements that improvements have been installed in a satisfactory manner in sufficient amount to warrant reduction in the face amount of such surety, or the character and extent of the subdivision require additional improvements, previously waived, or the cost of the improvements has risen substantially and the performance guarantee is no longer sufficient to cover costs, then, in each of the above cases, the Board may modify its requirements for any or all such improvements, and the face value of such surety shall thereupon be reduced or increased by an appropriate amount.

B. Covenant.

- (1) The applicant may request approval of the definitive plan on the condition that a covenant running with the land has been duly executed and recorded and so noted on the plan.
- (2) Such covenant shall provide that no lot may be sold or built upon until all of the required improvements have been completed and approved. The Board may set a two-year or other appropriate time limit within which all construction must be completed.
- (3) The Board shall specify that failure to complete specified construction within the applicable time for completion may result in rescission of the plan upon a vote of the Board. The applicant may request a time extension subject to the Board's review and approval.

C. Tripartite agreement.

The applicant shall deliver to the Board an agreement executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the Board and otherwise due the applicant to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the

work and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion.

D. Reduction of bond or surety or release of covenant.

- (1) Upon the completion of the ways and the installation of municipal services, the applicant shall so notify the Board and the Town Clerk, by delivery or registered mail, requesting release from such bond or surety or covenant. If the Board determines that such construction and installation have been completed in accordance with the specifications, it shall release such bond or surety or covenant. The Board may require that an amount equal to 10% of the original face value of the bond or surety remain on deposit with the Town Treasurer-Collector for a period of one year from the date of completion. If construction was secured by a covenant, the Board may require that an appropriate amount be deposited with the Town Treasurer-Collector for a period of one year following the release. Said deposit may be a bond or surety.
- (2) The Board, at its discretion, may condition such request upon the submission of as-built plans.
- (3) The Board shall act upon such request within 45 days.

§ 250-12. As-built drawings.

- A. The developer shall provide the Board with one set of as-built drawings drawn on polyester film sepia and at the same scale as the approved plan after the completion of the subdivision or a portion of a subdivision showing the precise location of:
 - (1) The street layout.
 - (2) The pavement, including sidewalks.
 - (3) All easements.
 - (4) Storm drainage system, including all invert elevations.
 - (5) Sewerage system, including all invert elevations.
 - (6) Water system, including all gates and hydrants.
 - (7) All other utilities.
 - (8) All granite bounds.
- B. The as-built drawings shall bear the stamp and signature of a registered land surveyor.

§ 250-13. Inspection and testing.

A. General.

- (1) All work performed as a consequence of these rules and regulations shall be subject to the review of the Board, which shall approve and accept or disapprove and reject each phase or portion of such work and at completion shall recommend the acceptance of all work or disapproval of the work with reasons therefor. The Board will employ the Superintendent of Public Works to act as its agent in the inspection of the work to ensure compliance with these rules and regulations and to report to the Board his recommendations as to approval or disapproval of the work. Such Superintendent or his designee shall make certain inspections in order to check the adequacy of the work at various stages prior to such work being covered by subsequent work. However, the Board, the Superintendent or such other persons as may be designated shall have the right to inspect the work at any time. Therefore, the applicant shall at all times provide safe and reasonable access to all parts of the work for inspection by the Board or its authorized agents.
- (2) All work which has been disapproved or is not acceptable to the Board shall be removed and replaced or otherwise corrected to the point of complying with the requirements of the Board for acceptance. Any work which has been covered by subsequent work prior to acceptance or is otherwise not available or obscured to the point of rendering inspection of the work difficult shall be considered not acceptable to the Board. Such subsequent work shall be removed as directed by the Superintendent to ensure availability of the work to be inspected as required.
- (3) The construction of the required improvements shall be inspected by the Superintendent or authorized agent, and unless approval of the work completed, including approval of materials used, to each point has been given in writing, no further work shall be commenced. Such inspections may include the taking of samples for laboratory analysis or testing. In such cases, the applicant shall ensure that the Superintendent is in no way hindered or obstructed in the course of obtaining such samples. Where such samples are removed from the completed work the applicant shall replace or restore such work, to the satisfaction of the Superintendent, to its condition prior to the taking of the sample.
- (4) The Superintendent may require certified copies of delivery receipts or bills of lading or other certification as to the description of materials used or incorporated in the work.

B. Notification of the Superintendent.

- (1) The Superintendent or his designee will act as the Board's representative and perform the inspections as required and otherwise act as the Board's agent to ensure compliance with these rules and regulations. The applicant shall keep the Superintendent fully informed as to the status and progress of the work and shall notify the Superintendent at least 48 hours in advance that the work has progressed to a stage that an inspection is required.
- (2) In the event the Superintendent makes an inspection of the work at the time designated and finds that such work is not at the proper state of completion or that the work has been covered or otherwise obscured, the Superintendent shall notify the applicant and the Board as to the additional steps the applicant shall take to complete the work to the point required or to the extent the work shall be uncovered or exposed to full view.

- (3) The applicant shall be liable for all costs and fees incurred by the Board as a result of performing these inspections. The Superintendent shall determine the estimated costs of the inspections, of which the applicant shall deposit 1/3 with the Town Treasurer-Collector before commencing any required improvements. The applicant shall make additional deposits as may be reasonably requested by the Board.

C. Required inspections.

The following inspections of the required improvements shall be made by the Superintendent or authorized agent. These inspections are the minimum required and may be in addition to any others that the Board may require. The applicant shall notify the Superintendent when work is to be done so that he may inspect the work in progress.

- (1) Upon completion of all clearing, grubbing and excavation and all work incidental to the preparation of the roadway. No fill shall have been placed at the time of this inspection.
- (2) Upon completion of the drainage system but prior to backfilling.
- (3) Upon completion of the installation of municipal services but prior to backfilling. The inspection of a municipal service shall be made by the agency responsible for the particular service. Each such agency shall notify the Superintendent of approval or disapproval of such installation.
- (4) Upon completion of backfilling the drainage system and utility installations and upon completion of the compaction of fill as may be required to bring the roadways to their proposed grades. The applicant shall notify the Superintendent as to the source of fill and provide him with samples. No backfilling or filling such take place until the Superintendent has notified the applicant of his approval of the material to be used.
- (5) Upon completion of each course of the bituminous concrete roadway surface.
- (6) Upon completion all work required on sidewalks, curbing, grass plots, side slopes, monuments, bounds and street signs.
- (7) A final inspection shall be made upon completion of all subsequent work as required, including the final cleanup.

D. Superintendent's report.

- (1) The Superintendent shall submit a completed written report to the Board for each way in the proposed subdivision. Such report shall contain all information which will enable the Board to make a decision and shall describe any special problems or situations which may arise during the construction of the required improvements.
- (2) The Superintendent will make progress reports to the Board that the work has been performed in accordance with these rules and regulations and the definitive plan. He shall inform the Board as soon as practical that the work is not acceptable with the reasons therefor.
- (3) If during the progress of the work the Superintendent finds it unacceptable and uncorrected, he shall immediately stop the work and notify the Board. Only the Superintendent or his designee shall have the authority to stop the work.

§ 250-14. Changes and alterations.

No changes or alterations, except as provided for in MGL c. 41, § 810, shall be made in an approved definitive plan without first resubmitting the changes to the Board for approval. Any alteration in grades, drainage plans or other utilities shall be deemed to constitute a change in a definitive plan.

§ 250-15. Acceptance of ways and improvements.

- A. Approval of a definitive plan shall not of itself constitute the laying out or acceptance by the Town of any way shown on such plan as a Town way, or the establishment as a public improvement for which the Town is responsible any park, playground, reserved area or other work or improvement shown on the plan.
- B. The ways shown on such plan shall not become public ways unless and until laid out and accepted as Town ways under the provisions of MGL c. 82, §§ 21 to 24 inclusive.

§ 250-16. Administration.

A. Authority.

- (1) The Board shall be the administrative agency of the rules and regulations and shall have all the powers assigned it by MGL c. 41, §§ 81A to GG.
- (2) Applicants aggrieved under the subdivision control process may appeal their case to the Essex County Superior Court or the Land Court.
- (3) The Board may assign as its agents appropriate Town agencies or officials and may from time to time hire professional assistance to review plans and inspect improvements, at the cost of the applicant.
- (4) The Board, on its own motion or on the petition of any party of interest, shall have the right to modify, amend or rescind its approval of a plan of a subdivision or to require a change in a plan as a condition of its retaining the status of an approved plan.

B. Waiver of requirements.

- (1) The applicant may request that specific requirements of these rules and regulations and construction standards be waived. Such requests must be made in writing at the time of submission of a definitive plan. If the Board determines, in its opinion, that the waiving of any specific requirement is in the public interest and not inconsistent with the Subdivision Control Law, it may grant such request(s). Any requests so granted must be noted on the definitive plan.
- (2) In granting such request(s), the Board may require such alternative conditions as will serve substantially the same objective(s) as the rule or regulation or standard waived.

C. Validity.

If any section, paragraph, sentence, clause or provision of these rules and regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these rules and regulations shall be deemed valid and effective.

D. Amendments.

These rules and regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Board, on its own motion or by petition, after a public hearing.

Appendix

ATTACHMENT 1 - CONSTRUCTION STANDARDS [Reformatted 9-10-2014]

I. Street Construction Standards

The following minimum specifications shall govern the installation of all streets and roadways within the right-of-way lines in the Town of Middleton under the Rules and Regulations Governing the Subdivision of Land adopted by the Planning Board and referred to in § 250-9B.

A. Roadways.

- (1) Clearing and grubbing. The entire area of each right-of-way and side lines shall be cleared of all stumps, brush, roots, boulders and other material and all trees not intended for preservation. Trees to be preserved shall be protected from bruises and other abuses continuously throughout the construction of the subdivision in a manner satisfactory to the Superintendent of Public Works.
- (2) Excavation and subgrade preparation. All topsoil shall be removed for the full length and width of the paved roadway and from under the sidewalk and side slope location regardless of whether or not finished grade is above the existing grade.

All other material shall be removed for the full length and width of the roadway to a depth of at least 16 inches below finished grade as shown on the profile plan; provided, however, that if such soil is soft and spongy or contains undesirable material, such as clay, sand pockets, stones over six inches in diameter, tree stumps, or other material detrimental to the subgrade, a deeper excavation below the subgrade shall be made as required by the Superintendent, including excavation for the stabilization of the side slopes.

- (3) Gravel base. After the roadway has been graded to an elevation 16 inches below the finished grade, a twelve-inch, compacted thickness, [sic] shall be placed in the roadway bed. No base course material shall be placed on frozen ground. No base course material shall be placed in layers which exceed eight inches in thickness. All subbase material shall be crusher run gravel consisting of inert material that is hard, durable stone and course sand, free from loam and clay, surface coatings and deleterious materials. The approved source of bank-run material shall be processed by mechanical means, having the following gradation:

Sieve	Percent Passing
3"	100
1.5"	70 to 100
.75" No.4	50 to 85
No. 200	30 to 60
3"	0 to 12

The maximum size of the stone in the gravel shall be three inches.

Base course material shall be compacted with no less than a ten-ton roller. The base course shall be placed to the lines and grade indicated on the approved plans. Any depressions that

occur shall be filled with additional material and re-rolled until the surface is true and even.

- (4) Paved surface. Paved surfaces shall be constructed for the full length of all streets within the subdivision shown on the plan. The center line of the paved surfaces shall coincide with the center line of the street right-of-way as shown on the plan unless the Board specifically approves otherwise.

The minimum width and depth of the paved surfaces shall be as follows:

Class	Paved Width (feet)	Binder Depth (inches)	Finish Depth (inches)
Major	30	2.5	1.5
Secondary	28	2.5	1.5
Minor	26	2.5	1.5
Sidewalk	5	1.5	1
Sidewalk at driveways	-	1.5	1.5

All paving material shall be bituminous concrete Type I-1 as specified by the Massachusetts Department of Public Works and shall be compacted and rolled to the above-specified thicknesses. Finish course shall not be put in place until the binder course has been in place through one winter season.

- (5) Curbing. Each and every street shall be built with curbing as follows:
- (a) All intersections shall have slope-faced granite curbing placed at all radii. The curbing shall have a twelve-inch depth with a six-inch face four inches thick and a minimum of three feet in length. Granite inlets shall be placed at all catch basins.
 - (b) All handicapped ramps shall have granite curbing and be constructed as shown in Diagrams D-1 and D-2.
 - (c) All other curbing shall be Cape Cod berm. The approximate dimensions shall be 1 1/2 inches by four inches by 12 inches. It shall be placed on top of the finish course.
- (6) Grass strips and cleared areas. All cleared areas, including grass strips and other areas within the right-of-way, shall be treated in the following manner:
- (a) On grass strip areas, at least six inches of topsoil (depth) after compaction shall be applied. Seeding of lawn grass shall be done after building construction has been completed on the particular adjacent lots.
 - (b) No removal of loam from the development shall be made until a six-inch thickness of compacted loam is provided throughout the entire area of all lots and on planting strips along the roadway. Only such areas as roadways, driveways, building sites and areas requiring filling may be stripped of topsoil.
- (7) Culs-de-sac. All turnarounds shall have a property line diameter of 120 feet. The center of any such turnaround, which shall be planted with low growing shrubs, shall have a diameter of not less than 45 feet. The applicant shall provide in the deed of every adjacent lot that the maintenance of any such turnaround shall be the responsibility of the owner(s) of such adjacent lot(s). Such deed restriction shall be noted on the plan.

II. Surface Water Drainage System Standards

The following minimum standards shall govern the installation of all surface water drainage systems in the Town under the Rules and Regulations Governing the Subdivision of Land adopted by the Planning Board and referred to in § 250-9C.

- A.** Pipes, culverts and drains. Pipe for the construction of culverts and drains shall be reinforced concrete pipe conforming to ASSHO-M170 Standard for Class III Pipe Wall B. All pipe 24 inches in diameter or smaller shall be bell and spigot type. Pipe larger than 24 inches in diameter shall be tongue and groove. There shall be no storm drains less than 12 inches inside diameter or culverts less than 18 inches inside diameter. In addition the following specific requirements shall be met:
- (1) All drains shall be laid to uniform grades and carefully backfilled so that the pipe is supported its entire length with compacted earth.
 - (2) All backfill material shall contain no stone larger than three inches in diameter. Backfill material shall be placed in lifts no greater than eight inches and compacted.
 - (3) Pipe joints shall be thoroughly wet before filling them with cement mortar. The mortar shall be placed around the entire circumference of the pipe.
 - (4) There shall be at least three feet of material covering all pipes.
 - (5) There shall be headwalls at both ends of all culverts and at the discharge ends of all storm drains.
 - (6) Scour protection in the form of riprap and riprap paving shall be placed at the outfalls of all drainage pipes. The riprap apron for all pipes flowing at velocities greater than four feet per second shall extend at least 10 times the nominal diameter of the discharge pipe.
 - (7) Discharge velocities in grassed areas shall not exceed four feet per second. Man-made channels flowing at greater velocities and radically curved channel sections shall be paved with stone riprap.
 - (8) Security bars shall be required at the entrance to and exit from all culverts or open pipe drains over 18 inches in diameter.
 - (9) Proper connections shall be made with existing drains where, in the opinion of the Superintendent, the capacity of the existing drain is adequate. Where the existing capacity is inadequate, the applicant shall provide for adequate capacity.
- B.** Catch basins and manholes. Catch basins and manholes shall be constructed in accordance with the applicable portions of Paragraph 201.60 of Section 201, Basins, Manholes and Inlets, of the Massachusetts Department of Public Works Standard Specifications for Highways and Bridges. In addition, the following specifications shall be met:
- (1) Catch basins shall be installed on both sides of the roadway on continuous grade at intervals of not more than 300 feet.
 - (2) A manhole shall be required at any change in grade or direction of the drainage pipe.
 - (3) Frames and grates shall be Type F and shall conform to the size and shape of the castings as shown in E.L. LeBaron Catalog Item Lf-248-2 or approved equal.

- (4) Frames and covers shall be Type A and shall conform to the size and shape of the castings as shown in E.L. LeBaron Catalog Item LD-268 cut with three-inch letters (DRAIN) or approved equal.
- (5) Where adjacent property is not subdivided, provisions shall be made for the extension of the drainage system by continuing appropriately sized drains to the exterior boundaries of the subdivision, at such size as will allow for their proper projection. Such drains shall be capped.
- (6) All existing cross drains on Town roads should not be blocked but dispersed.

C. Natural drainage. Where natural drainage courses are obstructed, cross drains and other structures, approved by the Superintendent, shall be installed to restore natural drainage. Capacity of such structures shall be on the basis of a twenty-five-year frequency storm. Where cross drains carry flow of natural watercourses, masonry headwalls or flared sections, including riprap, shall be installed, as approved by the Superintendent, to prevent erosion.

III. Water System Specifications

If a public water system is located within reasonable proximity of the subdivision, the applicant shall connect all lots to such public water supply.

If a public water system is planned to be installed within reasonable proximity of the subdivision, as approved by prior Town Meeting action, the applicant shall install, at his cost, in the street and to every lot water laterals which can be later connected to such public water system.

Water construction shall conform to the standards and specifications set forth by the Town of Middleton and/or Danvers. Conformance of standards adhering to either Middleton's or Danvers' specifications shall be set forth by the Superintendent of Public Works for the Town of Middleton.

IV. Sewerage System Specifications

If a public sewerage system is located within reasonable proximity to the subdivision, the applicant shall connect all lots to such public sewerage system.

If a public sewerage system is planned to be installed within reasonable proximity to the subdivision, as approved by prior Town Meeting action, the applicant shall install, at his cost, in the street and to every lot sewerage laterals which can be later connected to such public sewerage system.

V. Utility Installation Specifications

All utilities shall be installed underground to each lot according to the specifications of the appropriate Town or private agency.

VI. Fire Alarm System Specifications

There shall be installed within the subdivision a sufficient number of fire alarm telegraph boxes, the type, number and location to be determined in writing by the Chief of the Fire Department.

VII. Streetlights

Streetlights shall be installed as required by the Middleton Electric Light Department. Streetlighting shall be provided by the applicant before the first house is occupied. Streetlights shall be at the ratio of one light per every four house lots but not less than 600 feet. Light fixtures to be approved by

the Middleton Electric Light Department and installed on lot lines in the grass area between the sidewalk and the curb.

The applicant shall bear the operating costs of said lights for a period of one year from completion of the subdivision. The applicant shall deposit with the Middleton Electric Light Department the estimated operating costs for one year prior to the streetlights being connected.

VIII. Monument Specifications

Granite bounds shall be not less than 48 inches in length and not less than six inches square. A drill hole 3/8 inch in diameter by 112 inch deep shall mark the actual point of survey reference.

Granite bounds shall be placed at the beginning and end of all curves, at the intersection of all streets and at such other places as may be required by the Board. On any curve with a tangent distance of over 500 feet, intermediate bounds shall be set at intervals of 500 feet measured from one end of the curve.

No permanent bounds shall be installed until all construction which would disturb or destroy the bounds is completed.

Lot markers in the form of one-and-one-half-inch outside diameter steel pipe shall be installed on all lot lines within the subdivision. Said markers shall be driven to a point three feet below grade and four inches above grade.

The setting of the bounds and markers shall be supervised by a registered land surveyor. Upon completion of setting the required number of bounds, a written certification from a registered land surveyor shall be submitted to the Board. Said certification shall state he has placed the lot markers and bounds with drill holes in accordance with the locations as shown on the approved plans.

IX. Tree Planting Specifications

The species and variety of the trees to be planted shall be determined by the Superintendent of Public Works. No evergreen trees, such as pine, fir, spruce or hemlock, shall be planted as public shade trees along a way.

All street trees shall be planted 10 feet from the back edge of the sidewalk. They shall be planted not more than 30 feet apart along the way. No tree shall be planted at any corner or intersection where it would become a hazard by obstructing vision or preventing safe vehicular travel.

All trees shall have a minimum height of 12 feet and shall be at least two inches' caliper measured 42 inches above ground level.

All trees shall be planted in 1/2 cubic yard of loam. It shall be mulched with four inches of chips. It shall be properly wrapped and guyed in a manner to ensure its survival.

All cut bankings that tend to wash or erode shall be planted with a low growing evergreen shrub such as laurel, mugho pine, or juniper and seeded with a deep-rooted perennial grass to prevent erosion.

The applicant will be liable for all plantings as to their erectness and good health for two years after planting as determined by the Superintendent of Public Works.

X. Cleaning Up

Before the sale of a lot, the applicant shall clean up any debris thereon caused by street construction and installation of utilities. All areas within the street destroyed or altered in construction operations shall be restored to vegetation or other finish satisfactory to the Board.

All front lawns should be graded so that water will flow towards the sidewalk.

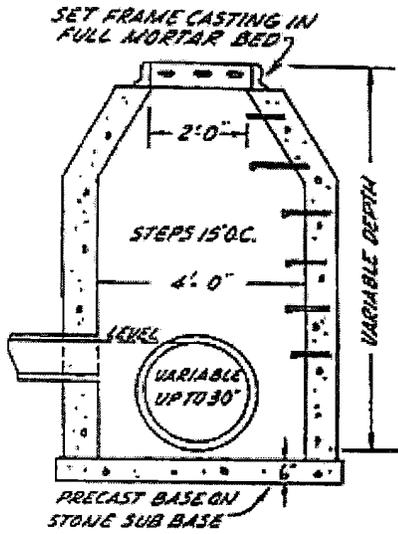
All driveways should be no less than five inches higher than the gutter grade of the road at least six feet into the driveway.

XI. Maintenance of Roadways and Utilities

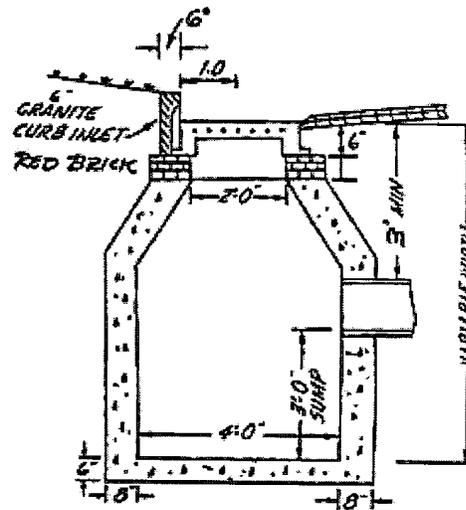
Applicants and their successors shall be responsible for the maintenance of all roadways within the subdivision until such roadways are accepted by Town Meeting as referred to in § 250-14. This maintenance extends to the repair and maintenance of, but not limited to, damage to any roadway or curb caused for whatever reason, the drainage system, sidewalks and utilities.

ATTACHMENT 2 - TYPICAL DIAGRAMS

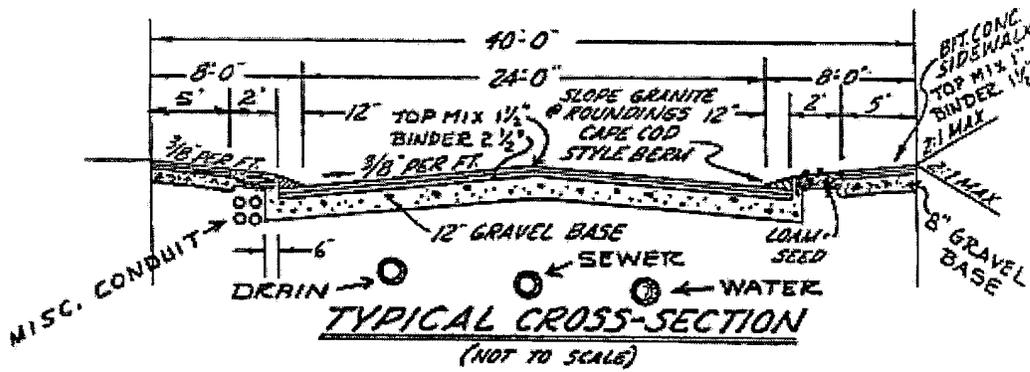
Town of Middleton



TYPICAL MANHOLE
DETAIL (NO SCALE)

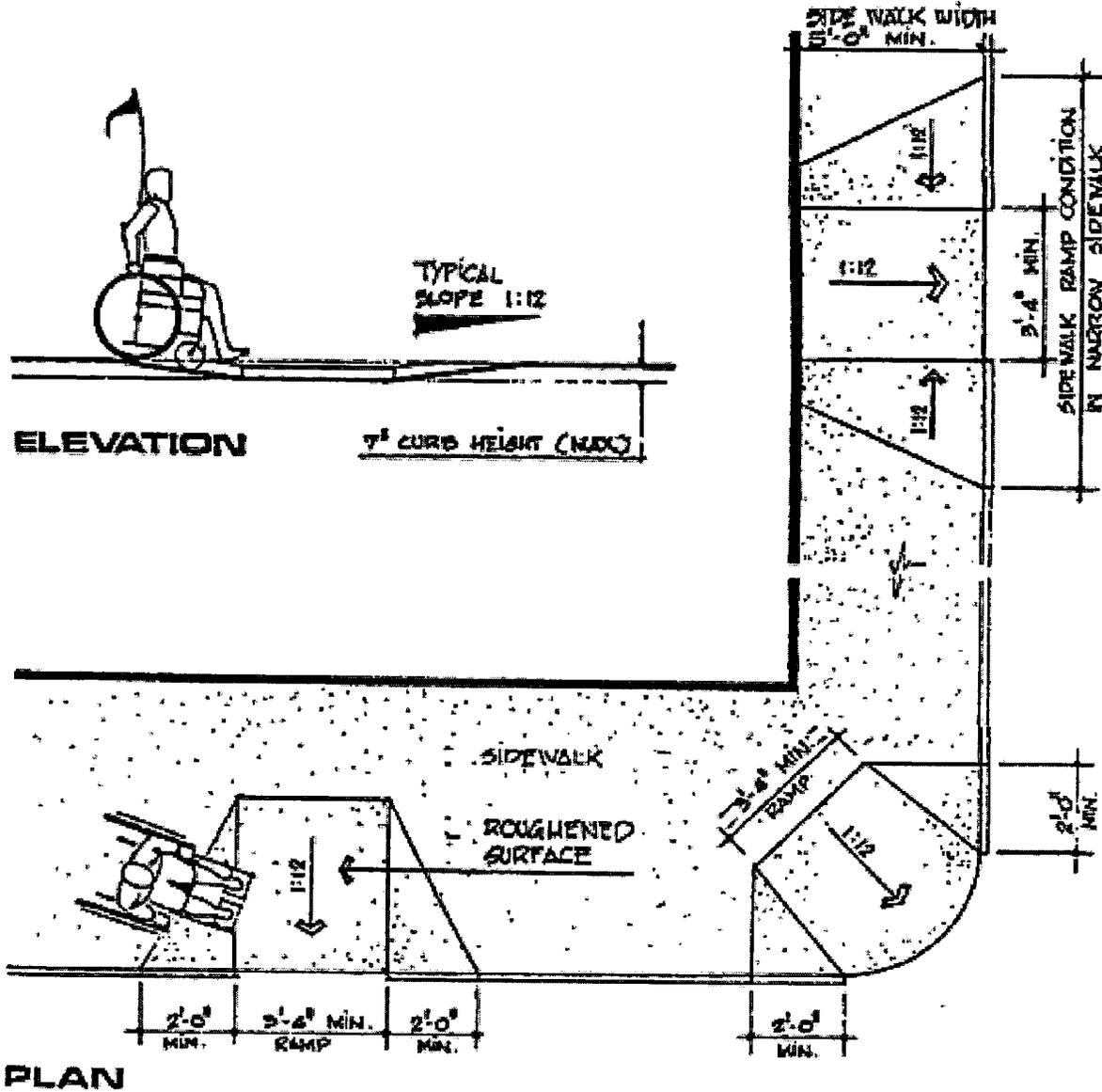


CATCH BASIN CURB INLET
DETAIL (NO SCALE)



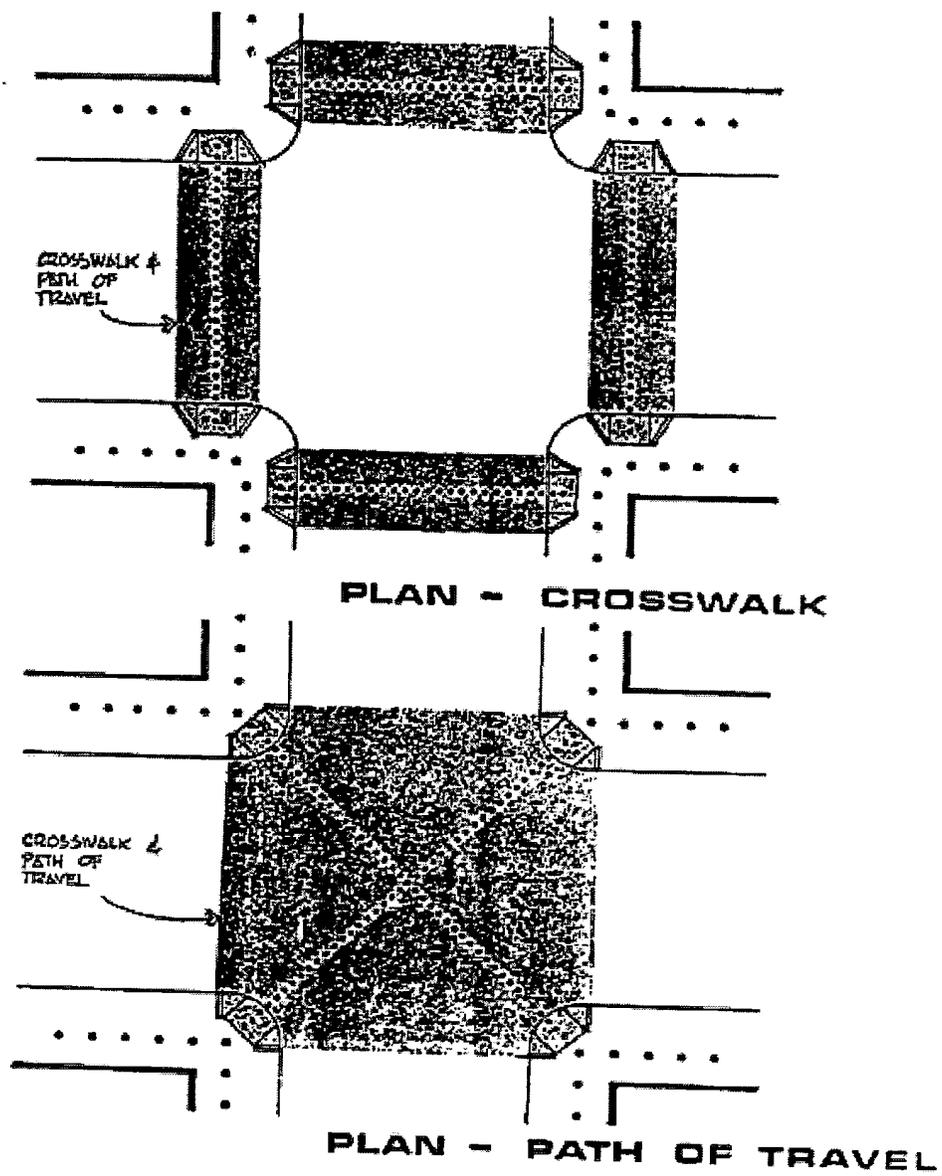
TYPICAL CROSS-SECTION
(NOT TO SCALE)

WHEELCHAIR RAMP DETAILS I



WHEEL CHAIR RAMP DETAILS

II



ATTACHMENT 5 - FORMS

FORM A - ANR PLAN APPLICATION

THE FOLLOWING FORMS HAVE BEEN APPROVED BY THE PLANNING BOARD AND THE TOWN COUNSEL. THE USE OF ANY OTHER FORM IS SUBJECT TO APPROVAL. THESE FORMS MAY BE REPRODUCED.

TOWN OF MIDDLETON, MASSACHUSETTS PLANNING BOARD

Application for Endorsement of Plan Approval Not Required

FORM A

_____ (date of filing) _____ (received by) _____ (date)

To the Middleton Planning Board:

The undersigned, believing that the accompanying plan of his property in the Town of Middleton does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Middleton Planning Board approval under the Subdivision Control Law is not required.

Deed to the property is recorded in the Essex South Registry of Deeds Book _____, Page _____ or registered in the Essex South Land Court, Certificate of Title _____ and shown on the Town of Middleton Assessors' Map Number _____ Parcel Number _____.

_____ (signature of owner) _____ (signature of applicant)

_____ (address) _____ (address)

_____ (surveyor) _____ (registration number)

_____ (address)

TOWN OF MIDDLETON, MASSACHUSETTS PLANNING BOARD

Application for Approval of a Preliminary Plan

FORM B

(date of filing)

(received by)

(date)

To the Middleton Planning Board:

The undersigned, being the present owner(s) of record of all land included within a proposed subdivision shown on the accompanying plan titled:

_____ by _____
dated _____ hereby submits said plan as a preliminary subdivision plan in accordance with the rules and regulations of the Middleton Planning Board and makes application to the Board for approval of said plan (waiver of any section of the rules and regulations should be requested in writing and accompany this application).

The undersigned's title to said land is derived from _____
_____ by deed dated _____ and recorded in the Essex South Registry of Deeds Book _____ Page _____ or registered in the Essex South Land Court, Certificate of Title No. _____ and shown on the Town of Middleton Assessors' Map Number _____ Parcel(s) Number _____.

Signature of Applicant: _____

Address: _____

Signature of Owner: _____

Address: _____

EXTENSION OF TIME AGREEMENT

**TOWN OF MIDDLETON, MASSACHUSETTS PLANNING BOARD
Agreement For Extension**

_____, the applicant for approval of a definitive plan
of _____ on an application dated _____,
and the Planning Board for the Town of Middleton, Massachusetts do hereby agree
with each other that the time period referred to in the fourth through sixth paragraphs of
MGL

c. 41, § 81U is hereby extended for an additional _____ () days from
_____ until _____.

Assented hereto this _____ day of _____ :

COMMONWEALTH OF MASSACHUSETTS

Essex, ss. _____

Then personally appeared before me the above named _____
as aforesaid and acknowledged the foregoing instrument to be his free act and deed.

Notary Public

My Commission Expires _____

Planning Board, Town of Middleton, Massachusetts

COMMONWEALTH OF MASSACHUSETTS

Essex, ss. _____

Then personally appeared before me the above-named members of the Planning Board
for the Town of Middleton, Massachusetts, and acknowledged the foregoing instrument
to be their free act and deed.

Notary Public

My Commission Expires _____

TOWN OF MIDDLETON, MASSACHUSETTS PLANNING BOARD

Covenant

KNOW ALL MEN BY THESE PRESENTS that whereas the undersigned _____ of _____ has submitted an application dated _____ to the Middleton Planning Board for approval of a definitive plan of a subdivision titled _____ dated _____ and has requested the Board to approve such plan without requiring a performance bond;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the Middleton Planning Board approving said plan without requiring a performance bond, the undersigned covenants and agrees with the Town of Middleton as follows:

1. The undersigned will not convey any lot in the subdivision or erect or place any structure on any lot on any such street in the subdivision until the construction of ways and the installation of municipal services necessary to adequately serve all lots on such street has been completed in the manner specified in the aforesaid definitive plan and in accordance with the covenants, conditions, agreements, terms and provisions thereof.
2. This agreement shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned.
3. This agreement shall constitute a covenant running with the land included in the aforesaid subdivision and shall operate as restrictions upon said land. This covenant shall take effect upon the approval of said plan. Reference to this covenant shall be entered upon said plan and shall be recorded when said plan is recorded.
4. It is understood and agreed that lots within the subdivision may be released from the foregoing conditions upon the recording of a certificate of performance executed by a majority of the Middleton Planning Board and enumerating the specific lots to be so released.
5. The undersigned represents and covenants that the undersigned is the owner in fee simple of all land included in the aforesaid subdivision and that there are no mortgages of record or otherwise of any of said land, except such as are described below and subordinated to this contract, and the present holders of said mortgages have assented to this contract prior to its execution by the undersigned.

SUBDIVISION OF LAND

- 6. The construction of all ways and installation of all municipal services shall be completed in accordance with the applicable Rules and Regulations of the Town of Middleton Governing the Subdivision of Land before _____, unless an extension of time is granted by the Middleton Planning Board. Failure to so complete shall automatically rescind approval of the plan.
- 7. The undersigned _____, spouse of the covenantor, hereby agrees that such interest as I may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

IN WITNESS WHEREOF the undersigned, applicant as aforesaid, does hereunto set his hand and seal this _____ day of _____, _____.

Applicant's Husband/Wife

Applicant(s)

by _____
(Title)

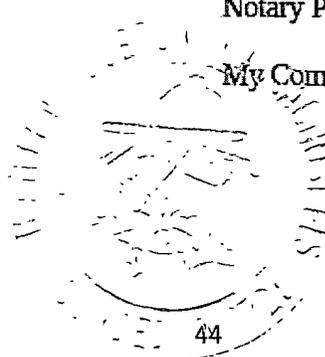
COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Then personally appeared before me the above-named _____ and acknowledged the foregoing instrument to be his free act and deed.

Notary Public

My Commission Expires _____



A TRUE COPY ATTEST

Kevin D. Fries
 MIDDLETON ASSISTANT
 TOWN CLERK