

COMMONWEALTH OF MASSACHUSETTS

TOWN OF LANESBOROUGH

Office of the Planning Board

Subdivision Regulations

Approved
January 1975
and Amended on May 13, 1991
and April 12, 1993

COMMONWEALTH OF MASSACHUSETTS

TOWN OF LANESBOROUGH

SUBDIVISION REGULATIONS

RULES AND REGULATIONS

GOVERNING THE SUBDIVISION OF LAND IN
THE TOWN OF LANESBOROUGH, MASSACHUSETTS

Adopted after a duly advertised Public Hearing
by the Planning Board on January 13, 1975
in accordance with Section 81-Q, chapter 41 of
the General Laws

Filed at the Registry of Deeds January 15, 1975.

Amended at a duly advertised Public Hearing
by the Planning Board on May 13, 1991
in accordance with Section 81-Q, Chapter 41 of
the General Laws

Filed at the State Land Court on May 15, 1991

Amended at a duly advertised Public Hearing
by the Planning Board on April 12, 1993
in accordance with Section 81-Q of
the General Laws

Filed at the State Land Court on April 15, 1993

RULES AND REGULATIONS
GOVERNING THE SUBDIVISION OF LAND
IN
LANESBOROUGH, MASSACHUSETTS

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RULES AND REGULATIONS
GOVERNING THE SUBDIVISION OF LAND
IN LANESBOROUGH, MASSACHUSETTS

SECTION 1 - PURPOSE

The subdivision control law has been enacted for the purpose of protecting the safety, convenience, and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect 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 open areas. The powers of a planning board and of a board of appeal 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 public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic, and other emergencies; for insuring compliance with the other applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage 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 the city or town in which it is located and with the ways in neighboring subdivisions.

SECTION 2 - AUTHORITY

Under the authority invested in the Planning Board of the Town of Lanesborough by Section 81-Q of Chapter 41 of the Massachusetts General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Lanesborough.

SECTION 3 - GENERAL

3.10 DEFINITIONS

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

"MAJOR STREET" - One which either (1) may carry through traffic from place to place, or (2) serves as an entrance or principle circulation street within a subdivision of ten (10) or more lots.

"MINOR STREET" - One which is used mainly to provide access to abutting lots and is not used for through traffic.

"PRELIMINARY PLAN" - A plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof, showing (a) the subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan"; (b) the names of the record owner and the applicant and the name of the designer, engineer or surveyor; (c) the names of all abutters, as determined from the most recent local 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, including adjacent existing natural waterways, in a general manner; (f) the approximate boundary lines of proposed lots, with approximate areas and dimensions; (g) the names, approximate location and widths of adjacent streets; and (h) the topography of the land, in a general manner.

"SKETCH PLAN" - May be a simple free-hand sketch, preferably on topographic survey, showing proposed layout of streets, lots, and other features in relation to existing conditions.

"STREET" - A public way, or private way either shown on a plan approved by the Planning Board in accordance with the Subdivision Control Law, or otherwise qualifying a lot for frontage under the Subdivision Control Law.

"SUBDIVISION" - The division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law, if at the time it was made, every lot within the tract so divided has frontage on (a) a public way or a way which the Clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a map theretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the city or town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least one hundred fifty (150) feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the city or town in which the land

lies into separate lots on each of which one of such buildings remains standing shall not constitute a subdivision.

3.20 PLAN BELIEVED NOT TO REQUIRE APPROVAL

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 who believes that the plan does not require approval under the Subdivision Control Law may submit the plan and application Form A (see Appendix) plus a filing fee of thirty-five dollars (\$35.00) per lot to the Planning Board accompanied by the necessary evidence that the plan does not require approval. Said person shall file, by delivery or certified mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor.

If the Planning Board determines that the plan does not require approval, it shall without a public hearing endorse on the plan the words "Approval Under The Subdivision Control Law Not Required."

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it will so inform the applicant and return the plan. The Planning Board will also notify the Town Clerk of its action.

If the Planning Board fails to act upon a plan submitted under this section within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required.

3.30 SUBDIVISION

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless or until a Definitive Plan of such subdivision has been approved and endorsed by the Planning Board as hereinafter provided.

3.40 APPLICATION REVIEW FEES

When reviewing an application for approval, the Board may determine that the assistance of outside professional expertise and/or consultants is warranted due to the size, scale, or complexity of a proposed project or because of a project's potential impacts. The Board may require that the applicant pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside professional expertise and/or consultants engaged by the Board to assist in the review of an application.

3.401 METHOD OF APPEAL

Any applicant may take an administrative appeal from the selection of an outside professional expert and/or consultant to the Board of Selectmen. Any applicant aggrieved by a selection of an outside consultant may appeal to the Board of Selectmen provided that such an appeal is entered within seven days after such selection has been made as recorded in the office of the Town Clerk. An appeal will not be considered valid unless it is formally filed with the office of the Town Clerk with a copy given to the Board of Selectmen. The applicant should notify the Planning Board of its intention to seek a waiver at the earliest possible time in the review and consultation selection process. If the applicant fails to sign and/or file a formal waiver of appeal, this action will then be viewed as an intention to appeal on the part of the project applicants. Failure to inform the Planning Board of such intention of appeal may result in the delay of start-up of the town outside review services. In acting on an administrative appeal, the Board of Selectmen may determine that: (a) a conflict of interest does exist, and/or the consultant does not meet the minimum qualifications, therefore the Planning Board must select another consultant, or (b) a conflict does not exist, and/or the consultant does meet the minimum qualifications, therefore the selection made by the Planning Board stands. The required time limit for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal, beginning from the date of filing such an appeal. In the event that no decision is made within one month (30 days) following the filing of the appeal, the selection made by the Planning Board shall stand.

SECTION 4 - PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

Before preparation of an official subdivision plan it is strongly recommended that the subdivider submit a sketch plan of the proposed subdivision to the Planning Board and consult with the Board informally concerning procedures, design standards, and required improvements in order to save time and avoid costly mistakes.

A subdivision plan shall be considered as submitted to the Planning Board when delivered at a meeting of the Board or when sent by certified or registered mail to the Planning Board, care of the Town Clerk, together with properly-filled out application form, fee, and supporting documents.

4.10 PRELIMINARY PLAN

4.101 GENERAL. A Preliminary Plan may be submitted by the subdivider for a residential subdivision, and shall be submitted for a non-residential subdivision, to the Planning Board and to the Board of Health for discussion and approval, modifications or disapproval by each board. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies, and owners of property abutting the subdivision to discuss and clarify the problems of the subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. A properly executed application Form B (see Appendix) shall be filed with the Preliminary Plan submitted to the Planning Board plus a filing fee of twenty five dollars (\$25.00) per lot.

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval of a Preliminary Plan and accompanied by a copy of the completed application (Form B).

4.102 CONTENTS. The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale and twelve (12) copies shall be filed at the office of the Planning Board. The applicant shall be responsible for filing one additional copy with the Board of Health. The Preliminary Plan shall provide the following:

- a. The subdivision name, boundaries, north point, date, scale, legend, and title "Preliminary Plan."
- b. The names, addresses, telephone numbers of the record owner, applicant, engineer, and surveyor.
- c. The full names and mailing addresses of all abutters, as determined from the most recent local 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, including adjacent existing natural waterways, in a general manner.
- f. the approximate boundary lines of proposed lots, with approximate areas and dimensions.
- g. the names, approximate location, and widths of adjacent streets.
- h. the topography of the land, in a general manner.
- i. other major site features, such as, but not limited to; swamps, bodies of water, wetlands, floodplains, vernal ponds, stone walls, buildings, trees over 16" in diameter, and rock outcroppings.
- j. source(s) of water for fire fighting.

The applicant is urged to prepare acetate overlays in order to expedite Planning Board review.

4.103 APPROVAL. The Planning Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision.

The Board has 45 days in which to act on a submission. If the applicant files a Preliminary Plan for a non-residential or residential subdivision and the Board acts within 45 days or fails to act and a Definitive Plan is submitted, the Board has 90 days to take final action. If the applicant chooses not to file a Preliminary Plan for a residential subdivision and starts by filing a Definitive Plan, the Board has 135 days to take final action. In all cases the applicant may make a written request to extend the time.

4.20 DEFINITIVE PLAN

4.201 GENERAL. Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board the following:

- a. An original drawing of the Definitive Plan and twelve (12) copies plus one which the applicant shall be responsible for filing with the Board of Health, dark line on white background. The original drawing will be returned after approval or disapproval.
- b. A properly executed application Form C (see Appendix).
- c. A filing fee in the amount of fifty dollars (\$50.00) per lot if a Preliminary Plan was filed, or five hundred dollars (\$500.00) per lot if a Preliminary Plan was not filed. The applicant shall also cover the cost of advertising and notices, to be billed separately.
- d. If, in the judgement of the Board, consulting services are necessary or appropriate, the applicant shall, prior to determination on the Definitive Plan by the Planning Board, reimburse the town for the full cost of such services. All consultants shall be selected by the Planning Board.

The applicant shall file by delivery or certified mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application (Form C).

4.202 CONTENTS. The Definitive Plan shall be prepared by a professional civil engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn with India ink on linen, tracing cloth, or mylar. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information in addition to all information required on a Preliminary Plan (the applicant is urged to prepare acetate overlays to expedite Planning Board review):

- a. The subdivision name, boundaries, north point, date, scale, and the title "Definitive Plan."
- b. Name and address of record owner, subdivider, and engineer or surveyor.
- c. Names and the mailing addresses of all abutters as they appear on the most recent local tax list.
- d. Lines and widths of existing and proposed roads, ways, easements, and public or common areas within the subdivision, and approved names of proposed roads.
- e. Boundary lines, areas and dimensions of all proposed lots, designated numerically and in sequence.
- f. Sufficient data to determine the location, direction, and length of every road and way line, lot line and boundary line, and to establish these lines on the ground.
- g. Location of all permanent monuments properly identified as to whether existing or proposed.
- h. Location, names and present widths of roads bounding, approaching, or within reasonable proximity of the subdivision.
- i. Indication of the purposes of easements and/or restrictions, including public hiking or travel trails.
- j. Suitable space to record the action of the Planning Board, Board of Health, and the Town Clerk.

NOTE: The following items may be submitted on separate sheets.

- k. Existing and proposed topography at a suitable contour interval.
- l. Location of floodplains and wetland areas, if any. Also indicate other major site features such as, but not limited to, ponds, marshes, streams, brooks, vernal pools, rock outcroppings, stone walls, fences, and trees over 16" in diameter.
- m. Overall plan for drainage of surface water.
- n. Directly above or below the layout plan for each road, a profile showing existing and proposed grades along the centerline and sidelines of that road, together with figures of elevation at the top and bottom of all even grades and at 25-foot intervals along all vertical curves. Intersecting roads shall be clearly indicated on the profile. The horizon-

tal scale of the profiles shall be 40 feet to one inch, and the vertical scale shall be four feet to one inch. Only one road plan and profile shall be drawn on a sheet except by permission of the Planning Board.

- o. Location and species of trees intended for preservation within the road rights of way.
- p. Any other information pertaining to natural characteristics of the site that may be needed in the opinion of the Planning Board or the Board of Health for determination of the suitability of the land for proposed purposes shall be furnished at the developer's expense.
- q. Size and location of all fire hydrants, pumps, water lines between hydrants and pumps, and sources of water for fire fighting.

4.203 IMPACT STATEMENT/EROSION CONTROL.

A. IMPACT STATEMENT. Any land subdivision plan consisting of ten (10) or more lots must be accompanied by an impact statement which details the probable effects of the proposed subdivision on the following aspects of concern to the town:

- 1. Increases in vehicular traffic on adjacent public ways.
- 2. Changes in surface drainage in surrounding area including estimated increase in peak run-off caused by altered surface conditions, and methods to be used to return water to the soil.
- 3. Land erosion or loss of tree cover.
- 4. Disturbance to other aspects of the natural ecology.
- 5. Demands on public services and utilities, including schools.

B. EROSION AND SEDIMENTATION CONTROL. Every land subdivision plan shall be accompanied by a plan for control of erosion and sedimentation prepared by a professional engineer, and shall include the following:

- 1. A map plan showing property lines, wetlands, stream courses, water bodies, location of areas to be stripped of vegetation, location of areas to be regraded, and contour data, including including existing and proposed grades.
- 2. A schedule of operations, to show the sequence and timing of major improvement phases such as clearing, grading, paving, installation of drainage features, and the like.
- 3. Seeding, sodding, or revegetation plans and specifications for all unprotected or unvegetated areas.
- 4. A map showing the location, design and timing of structural sediment-control measures, such as diversions, waterways, grade stabilization structures, debris basins, and the like.
- 5. The calculations used in designing erosion-control structures.
- 6. Description of procedures to be followed to maintain sediment-control measures, including the manner in which sediment removed from control structures will be disposed of.

7. The performance bond required for improvements in connection with the proposed subdivision (see Section 4.206) may be required to be sufficient to cover the costs of accomplishing the erosion and sedimentation-control measures.
8. Performance standards shall conform to those described in the "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts," (USDA, Soil Conservation Service, 1975).

4.204 PLAN APPROVAL BY BOARD OF HEALTH.

- a. At the time of filing the Definitive Plan, the subdivider shall also file with the Board of Health two contact prints of the Definitive Plan. The Board of Health shall report to the Planning Board in writing approval or disapproval of said plan, and in the event of disapproval shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report, and where possible, shall make recommendations for the adjustment thereof. If a municipal sewage system will serve the proposed subdivision, then failure of the Board of Health to make such a report within forty-five (45) days after the plan is filed with their office shall be deemed approval by such board. A copy of the report, if any, shall be sent by such board to the applicant.
- b. Every lot serviced by a municipal water supply and sewerage disposal systems shall be provided with water supply and sewerage disposal installations in compliance with the provisions of the State Sanitary Code, subject to the approval of the Board of Health.
- c. The Board of Health may approve the plan on condition that prior to the issuance of a building permit for a dwelling on any lot, soil and percolation tests be made in accordance with their specifications by a qualified technician and approved by the Board of Health of the Town of Lanesborough as to suitability of a specific location for a subsurface sewage disposal installation in compliance with the State Sanitary Code.
- d. Based on the recommendation of the State Department of Public Health or the Town's Board of Health, where due to restrictive water, soil, topographic, geologic, or other natural condition, the proposed development is of a density which exceeds the sustaining capacity of the proposed lots in terms of individual sewage disposal systems and wells on each lot, the Planning Board may require that the developer revise his plan to either provide for:

1. a consolidated water supply system
2. a consolidated sewage disposal system
3. an increase in lot size so that individual wells and sewage disposal systems may have adequate areas in which to properly function on the same lot

4.205 PUBLIC HEARING.

- a. Before approval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Planning Board at least fourteen (14) days prior thereto by advertisement in a newspaper of general circulation in the town once in each of two successive weeks, the first publication not being less than fourteen (14) days before the date of such hearing, or if there is no such newspaper in town, then by posting such in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the day of such hearing and by mailing a copy of such advertisement to the applicant and to all owners of land abutting upon the land included in such plan appearing on the most recent tax list.
- b. The applicant and his engineer and surveyor shall be present at the public hearing.
- c. A hearing by the Conservation Commission may be required under the provisions of the Wetlands Protection Act, Chapter 131, Section 40 of the General Laws.

4.206 PERFORMANCE GUARANTEE. Before endorsement of the Planning Board's approval of a Definitive Plan of a subdivision, the subdivider shall agree to complete required improvements specified in Section 6 for any lots in a subdivision.

Approval of the plan by the Planning Board may be subject to condition that such approval shall automatically rescind after a period of time set by the Planning Board unless all required improvements as specified in these regulations and in the recommendations of the Board of Health have been completed within that period of time.

The construction and installation of required improvements shall be secured by one, or in part by one and in part by the other, of the following methods, which may from time to time be varied by the applicant:

- a. Approval with bonds or surety.

The subdivider shall either file a performance bond or a deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements specified in

Section 6 not covered by a covenant under "b" hereof. Such bond or security, if filed and deposited, shall be approved as to form and manner of execution by the Town Counsel, and shall be contingent on the completion of such improvements within the period of time specified by the Planning Board. If the required improvements are not completed within the set period of time, the Planning Board may require an estimate of the cost of the remaining work, increase the amount of the performance bond, and establish a new date for the completion of said improvements. Failure of the developer to complete the improvements within the set period of time or any extension thereof, shall not relieve the developer from his obligation to pay the increased cost for completing the improvements in excess of his performance bond.

b. Approval with covenant.

The subdivider shall file a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways, services, and improvements as specified in Section 4 not covered by bond or deposit under "a" hereof shall be provided to serve any lot before such lot may be built upon or conveyed other than by mortgage deed.

4.207 REDUCTION OF BOND OR SURETY. The penal sum of any such bond, or the amount of any deposit held under clause "a" above, may, from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by the Board in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required.

4.208 RELEASE OF PERFORMANCE GUARANTEE.

a. Upon the completion of improvements required under Section 6, security for the performance of which was given by bond, deposit, or covenant, or upon the performance of any covenant with respect to any lot, the subdivider shall send by certified mail to the Town Clerk a written statement in duplicate that the said construction or installation in connection with such bond, deposit, or covenant has been given has been completed in accordance to the requirements contained under Section 6, such statement to contain the address of the applicant, and the Town Clerk shall forthwith furnish a copy of said statement to the Planning Board. If the Planning Board determines that said construction or installation has not been completed, it shall specify in a notice sent by certified mail to the applicant and to the Town Clerk the details wherein said

construction and installation fails to comply with the requirements under Section 6. Upon failure of the Planning Board to act within forty-five (45) days after receipt by the Town Clerk of the applicant's said statement, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void. In the event that said forty-five (45) day period expires without such specification, or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

- b. Before the final release by the Planning Board of the town's interest in a performance bond, deposit, or covenant, the applicant shall file with the Board a certificate (Form F) by a registered Massachusetts professional civil engineer and land surveyor declaring that streets, storm drains, and other required construction and improvements on the ground have been properly completed in accordance with the approved plan and subdivision regulations of the Planning Board, and with the recommendations by the Board of Health.

4.209 CERTIFICATE OF ACTION.

- a. The Planning Board shall file a certificate of its action with the Town Clerk and shall send notice of such action by registered mail to the applicant at the address stated on the application. The Board shall approve, modify and approve, or disapprove such plan as set forth in MGL, Chapter 41, Section 81-U.

In the event of disapproval, the Planning Board shall state in detail wherein the plan does not conform to the rules and regulations of the Board or the recommendations of the Board of Health.

Approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of the majority of the Planning Board, but not until the expiration of twenty (20) days without notice of appeal to the Superior Court, or, if appeal has been taken, the expiration of the twenty (20) days after the entry of the final decree of the court sustaining the approval of such plan (MGL, Chapter 41, Section 81-V).
- b. Approval of the Definitive Plan does not constitute the laying out or acceptance by the town of streets within a subdivision, nor does it indicate in any way compliance with the provisions of the Wetlands Protection Act, Chapter 131, Section 40 of the General Laws.

- 4.210 SUBMISSION OF DOCUMENTS. Easements, and bond and/or covenant, shall be submitted within twenty (20) days from the date of approval of the Definitive Plan to the Planning Board, which then shall submit the documents to the Town Counsel for approval as to form and legality.
- 4.211 FILING THE FORMS IN THE REGISTRY OF DEEDS OR LAND COURT. Approval of all subdivisions is subject to the condition that, unless an appeal has been taken from such approval as provided by statute, the subdivider will record the subdivision plan in the Berkshire Middle District Registry Of Deeds, or the Land Court, within six months from the date of its approval, and furnish a copy of the recorded plan to the Planning Board and the Tax Assessor. If the applicant delays recording of such plan past the required six (6) month period, such plan shall not be accepted for recording by the Registry Of Deeds or Land Court unless and until it has endorsed thereon, or recorded therewith and referee to thereon, a certificate of the Planning Board, or the Town Clerk, dated within thirty (30) days of such recording, that the approval has not been modified, amended or rescinded, nor the plan changed. Such certificate shall, upon application, be made by the Board or the Town Clerk unless the records of the Board or the Town Clerk receiving the application show that there has been such modification, amendment, rescission, or change. The copy of plans sent to the Tax Assessor shall be 24" x 36" with a three (3) inch margin at the left hand side of the page and one inch margins on the other three sides. The scale of this copy shall be 1" = 100'.

SECTION 5 - DESIGN STANDARDS

5.10 STREETS

5.101 LOCATION AND ALIGNMENT.

- a. All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision. Curvilinear street design will be encouraged.
- b. The proposed street shall conform, so far as practicable, to the master or study plan as adopted in whole or in part by the Planning Board.

- c. Provision satisfactory to the Planning Board shall be made for the proper projection of streets or for access to adjoining property which is not yet subdivided, if deemed necessary by the Board.
- d. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- e. Street jogs with centerline offsets of less than 125 feet should be avoided.
- f. The minimum centerline radii of curved streets shall be:

	<u>Mountain</u>	<u>Plain</u>
Minor street	100 feet	150 feet
Major street	250 feet	350 feet

- g. Streets shall be laid out so as to intersect as nearly as possible at right angles. No road shall intersect any other road at less than 60 degrees
- h. Property lines at street intersections shall be rounded or cut back to provide for a radius at the edge of the traveled way of not less than thirty (30) feet at intersections with a major street and twenty (20) feet for intersections involving only minor streets or lanes.
- i. Cross (four-cornered) street intersections shall be avoided where possible, with the exception of arterial street crossings.
- j. All ways shown on a Preliminary Plan shall be named in pencil and shall have names rather than numbers or letters (such as First Street or Avenue A). Names shall be substantially different from names of existing ways in the Town or nearby communities.
- k. Any group of twenty (20) or more lots shall provide for two means of egress.

5.102 The minimum width of a street right-of-way shall be as follows:

Minor street	40 feet
Major street	60 feet

Greater width may be required by the Planning Board when deemed necessary due to anticipated vehicular traffic or other considerations.

5.103 GRADE.

- a. Grades of streets shall not be less than 0.5%. Grades shall not be more than 5.0% for major streets nor more than 10.0% for minor or collector streets. The grade of a street within fifty (50) feet of a street intersection shall not exceed 1.0% to provide a level area for traffic safety.
- b. On any street where the grade exceeds 5.0% on the approach to an intersection, a leveling area with a slope of not more than 4.0% shall be provided for a distance of not less than fifty (50) feet measured from the nearest exterior line of an intersecting street.
- c. Vertical curves are required whenever the algebraic difference in grade between centerline tangents is 2.0% or more.
- d. Street centerline profiles shall at no point be less than three (3) feet above the grade of adjacent wetlands or marsh.

5.104 SIGHT DISTANCES. Forward stopping sight distances shall be not less than the following:

	<u>Mountain</u>	<u>Plain</u>
Minor street	150 feet	225 feet
Major street	300 feet	400 feet

5.105 DEAD-END STREETS.

- a. Dead-end streets shall not be longer than 500 feet, unless, in the opinion of the Planning Board, a greater length is necessitated by topography or other local conditions.
- b. Dead-end streets shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet, and a property line diameter of at least 120 feet.
- c. At the end of a dead-end street the Board may require the reservation of an easement twenty (20) feet wide to provide for the continuation of pedestrian traffic and/or utilities.
- d. Any street which joins or intersects a dead-end street shall have access at both ends from a Town, County, or State public way adjacent to the subdivision.

5.106 ACCESS THROUGH ANOTHER MUNICIPALITY. In case access to a subdivision crosses land through 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 municipality and that a legally adequate performance bond has been duly posted or that such access is adequately improved to handle prospective traffic.

5.20 EASEMENTS

5.201 Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twelve (12) feet wide.

5.202 Where a subdivision is traversed by a water course, drainage way, channel, or stream, the Planning Board may require that there be provided a storm-water easement or drainage right-of-way of adequate width to conform substantially to the lines of such water course, drainage way, channel, or stream, and to provide for construction or other necessary purposes.

5.30 OPEN SPACES

Before approval of a plan the Planning Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Planning Board may by appropriate endorsement on the plan require that no building be erected upon such park or parks without its approval for a period of three years.

5.40 PROTECTION OF NATURAL FEATURES

Due regard shall be shown for all natural features, such as large trees, stone walls or fences, water courses, scenic points, historic spots, and similar community assets which, if preserved, will add attractiveness and value to the subdivision. The developer shall make every attempt to adapt his subdivision to the site with a minimum of cutting and filling operations.

5.50 FIRE PROTECTION

5.501 All new subdivisions or portions of new subdivisions that are not serviced by a public water supply should consider providing for fire protection by the construction of a storage facility that will provide a sufficient supply of water in the event of a fire.

5.502 Said storage facility may be a fire pond, standpipe, tank, or other structure.

SECTION 6 - REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION

6.10 STREETS AND RIGHTS-OF-WAY

6.101 The entire area of each street right-of-way shall be cleared of all stumps, brush, roots, boulders, like material, and all trees not intended for preservation. No trees may be preserved within eight (8) feet of the edge of the traveled way.

6.102 The full length and width of the travelled way shall be excavated or filled, as necessary, to a depth of at least eighteen (18) inches below the finished surface as shown on the profile. However, if the soil is soft and spongy, or contains undesirable material such as clay, sand pockets, peat or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable well-compacted material.

6.103 All parts of the travelled way shall be brought to a finished grade as shown on the profile of the Definitive Plan with at least the top eighteen (18) inches consisting of well-compacted gravel to a width of at least twenty-four (24) feet, to be located centrally within the street right-of-way. At each site there shall be a shoulder three (3) feet wide, also consisting of well-compacted binding gravel at least eighteen (18) inches deep. The gravel shall be spread and rolled in three layers of about six (6) inches each. All stones larger than four (4) inches shall be removed before layers are rolled. Rolling shall be done with a self-propelled roller weighing not less than ten (10) tons and shall continue until a firm, even surface, true to line and grade, is obtained.

6.104 PAVING

a. All streets shall be paved and all driveways provided by the subdivider shall be paved from the street line to the right-of-way line.

b. All paving is to be done in conformity with the Massachusetts Highway Department specifications for Type I-1 bituminous concrete, both in quality of materials and methods of application. In no case shall the paving be laid until the gravel base has been compacted and written approval of the completion of the base has been signified by the agent designed by the Planning Board.

- c. The subdivider shall repair any settlement or imperfections in this work during a period of one year from the date of final installation of pavement.

6.11 SURFACE DRAINAGE

- 6.111 Adequate disposal of surface water shall be provided. Catch basins and culverts shall be built in conformity with specifications of the Planning Board on both sides of the roadway on continuous grades at intervals of not more than 400 feet, at low points and sags in the roadway, and near the corners of the roadway at intersecting streets.
 - 6.112 The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width and shall be designed so as to prevent any erosion, siltation, or flooding of travelled ways or adjacent property.
 - 6.113 A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Planning Board or its agent shall approve the design and size of the facility based on anticipated run-off from a "25-year" storm under conditions of total potential development permitted by the Zoning By-Laws in the watershed.
- #### 6.12 UTILITY WIRES
- 6.121 All utility wiring as well as transformers and other distribution and control devices shall be placed underground.
 - 6.122 Poles and any associated structures used for police and fire alarm boxes, and for street lighting, and other similar municipal equipment, shall be installed where deemed necessary by the Planning Board, and shall be of a design approved by the Planning Board.
 - 6.123 Utility wires or cables, other than those going across streets and those leading directly to individual consumer installations, shall be buried within the street right-of-way in a strip four and one half (4-1/2) feet wide running parallel to the edge of the right-of-way, unless soil or terrain require a different location. No wires or cables may be installed under the traveled portion of the right-of-way except where crossing a street and there ducts must be used.

6.124 Copies of all plans showing the location of all buried wires or cables are to be filed by the subdivider before any paving of streets is started, one copy with the Planning Board, one with the Town Clerk, and one with the Selectmen.

6.13 PERMANENT MONUMENTS

6.131 Permanent monuments shall be installed at all street intersections, at all points of change in the direction or curvature of streets and at other points where, in the opinion of the Planning Board, permanent monuments may be necessary.

6.132 The permanent monuments shall be of 3,000 P.S.I. reinforced concrete, and shall measure 5' x 6" x 6" and shall have a suitable reference marker on the top.

6.133 No permanent monuments shall be installed until all construction that would destroy them or disturb them is completed. The tops of monuments shall be set to the established grades, and backfill material shall be carefully placed around each monument and thoroughly tamped.

6.14 STREET-NAME SIGNS

Posts with signs carrying the names of streets or other ways shall be installed at the beginning of all new ways and at the intersection of all ways whether existing or proposed within a subdivision. There shall be at least one such sign and signpost at each intersection. Said signs and signposts shall follow the specifications of the Selectmen.

6.15 SIDEWALKS AND CURBING

The Planning Board may require construction of curbing and sidewalks on one or both sides of the streets to be built if deemed necessary.

6.16 WORK STANDARDS

Unless otherwise specified, all the work and the materials used in the work to be done under these regulations shall conform to the requirements of "The Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways, Bridges, and Waterways" as most recently amended, and to the standards as published by the Massachusetts Department of Public Works.

6.17 INSPECTIONS

The developer's engineer shall make periodic site inspections to ensure that the work is being done in accordance with the approved Definitive Plan and these subdivision regulations. The developer's engineer shall submit monthly reports to the Planning Board when the work is in progress. In addition, the Planning Board shall be notified by the subdivider prior to the commencement of each of the major phases of construction; and as each phase is completed, it shall be inspected and approved by the Planning Board prior to starting work in the succeeding phase. At its discretion, the Planning Board may retain a qualified engineer or other qualified consultant to inspect and oversee the fulfillment of all provisions of these Rules and Regulations, the expense thereof to be borne by the subdivider, whether applying to construction of ways or to other provisions of these Rules and Regulations. The Planning Board will inform the developer by registered mail of estimated costs at least seven (7) days before any consulting work is begun. (See Section 3.401 for method of appeal.)

6.18 SHADE TREES

Unless at least two (2) shade trees per lot, of species recommended by the Lanesborough Conservation Commission and having a diameter of at least one inch at a point one foot above the finished grade, exist and can be preserved either within the road right-of-way, or within twenty feet of the edge of the right-of-way, there shall be planted trees of the species recommended by the Conservation Commission and measuring at least one inch in diameter at a point approximately four feet above the root collar.

6.19 TOPSOIL

Topsoil shall be placed at a depth of four (4) inches and thoroughly compacted on side slopes within the road right-of-way and over land exposed during grading operations. Grading shall be done carefully to avoid unnecessary damage to existing vegetation. Except when necessary to conform to road, driveway, and drainage standards or to eliminate blind intersection or poor sight lines at curves, major earth movements shall be avoided. Drainage ditches wherever possible shall be graded to resemble natural streams. Topsoil shall not be removed from the site except where so authorized by the Planning Board.

6.20 SEEDING

To prevent erosion, shoulders and graded slopes shall be seeded on completion or planted with shrubs or similar approved landscape treatment recommended by the Conservation Commission. Seed and planting specifications shall be in accordance with Section H-3 of the Standard Specifications for Highways and Bridges of the Commonwealth. All new planting within the street right-of-way shall be with good nursery stock and will be subject to inspection after one year. Trees, shrubs, or grass found by the Board to be dead or in unsatisfactory condition within one year from the time of planting may be required to be replaced by the developer.

6.21 SIDE SLOPES

The slope of the area from right-of-way line to the finished grade of abutting lots shall not be greater than at a rate of two (2) feet horizontal to one (1) foot vertical.

Whenever the approved street grade differs substantially from the grade of adjacent land or where otherwise necessary for public safety, the applicant shall be required to erect retaining walls or guardrails, of the type and size approved by the Planning Board.

6.22 CLEAN -UP

The entire area of the subdivision must be cleaned up so as to leave a neat and orderly appearance, free from debris and other objectionable materials. The subdivider shall be responsible for providing thoroughly clean and unsilted storm-drain lines within the subdivision.

SECTION 7 - ADMINISTRATION

7.10 VARIATION

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgement of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

7.20 REFERENCE

For matters not covered by these Rules and Regulations, reference is made to Sections 81-K to 81-GG, inclusive, Chapter 41 of the General Laws of Massachusetts, and to the By-Laws of the Town of Lanesborough.

7.30 ONE DWELLING PER LOT

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision or elsewhere in the Town, without the consent of the Board, and that such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building, in the same manner or otherwise required for lots within a subdivision.

FORM A: APPLICATION FOR ENDORSEMENT OF APPROVAL NOT REQUIRED PLAN

_____, 19__

To the Planning Board of the Town of Lanesborough, Mass.:

The undersigned wishes to record the accompanying plan and requests a determination and endorsement by said Board that approval by it under the Subdivision Regulations is not required. The undersigned believes that such approval is not required for the following reasons (circle as appropriate):

1. The accompanying plan is not a subdivision because the plan does not show a division of land.
2. The division of the tract of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by the Lanesborough Zoning By-Law under Section II, Table 1, which requires _____ feet for erection of a building on such lot; and every lot shown on the plan has such frontage on:
 - a. a public way or way that the Town Clerk certifies is maintained and used as a public way, namely _____, or
 - b. a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Regulations, namely _____ on _____, and subject to the following conditions _____, or
 - c. a private way in existence on Jan. 15, 1975, the date when the Subdivision Regulations became effective in the town of Lanesborough, having in the opinion of the Planning Board sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon, namely _____.
3. The division of the tract of land shown on the accompanying plan is not a subdivision because it shows a proposed conveyance or other instrument, namely _____, which adds to/takes away from/changes the size and shape of lots in such a manner so that no lot affected is left without frontage as required by the Lanesborough Zoning By-Law under Section II, Table 1, which requires _____ feet.
4. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings, were standing on the plan prior to Jan. 15, 1975, the date when the Subdivision Regulations went into effect in the town of Lanesborough, and one of such buildings remains standing on each of the lots as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the Subdivision Regulations is submitted as follows:

applicant's name - please print

name of preparer of plan - please print

_____.

The owner's title to the land is derived under deed from _____,
dated _____, 19____, and recorded in Northern Berkshire Registry of Deeds, Book _____,
Page _____, or Land Court Certificate of Title No. _____, registered in Northern Berkshire Registry of
Deeds Book _____, Page _____ and _____, Assessors' Book _____, Page _____.

Applicant's name _____
address _____

telephone _____
signature _____

Received by Town Clerk:
fee of \$ _____ (\$35 per lot)
date _____
time _____
signature _____

owner's signature and address if not the applicant, or applicant's authorization if not the owner:

PLANNING BOARD DETERMINATION:

Approval is not required ____
Approval is required ____

Reasons: _____

_____.

date of determination: _____
date Town Clerk notified: _____
date duplicate copy sent to applicant: _____

_____, Chair

Lanesborough Planning Board

FORM B: APPLICATION FOR APPROVAL OF PRELIMINARY PLAN

_____, 19 ____

To the Planning Board of the Town of Lanesborough, Mass.:

The undersigned, being the applicant as defined under M.G.L. Chapter 41, Section 81-L, for approval of a proposed subdivision shown on a plan entitled: _____

designed by _____, dated _____, 19 ____, and described as follows: located _____, number of lots proposed _____, total acreage of tract _____, said applicant hereby submits said plan as a PRELIMINARY subdivision plan in accordance with the Rules and Regulations Governing the Subdivision of Land of the Lanesborough Planning Board and makes application to the Board for approval of said plan.

The undersigned's title to said land is derived from _____, by deed dated _____ and recorded in the Northern Berkshire Registry of Deeds Book ____, Page ____, or Land Court Certificate of Title No. _____, Northern Berkshire Registry of Deeds Book ____, Page ____.

Applicant's name _____
address _____

telephone _____
signature _____

Received (with 12 plan copies) by Town Clerk:
fee of \$ _____ (\$25 per lot)
date _____
time _____
signature _____

owner's signature and address if not the applicant, or applicant's authorization if not the owner:

At a duly called and properly posted meeting of the Lanesborough Planning Board held _____, 19____, it was voted to approve/approve with modification/disapprove the above preliminary subdivision plan. Comments: _____

_____, Chair

date duplicate copy with final determination sent to applicant: _____

Lanesborough Planning Board

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FORM C: APPLICATION FOR APPROVAL OF DEFINITIVE SUBDIVISION PLAN

To the Planning Board of the Town of Lanesborough, Mass., _____, 19____

The undersigned, being the applicant as defined under M.G.L. Chapter 41, Section 81-L, for approval of a proposed subdivision shown on a plan entitled: _____

designed by _____, dated _____, 19____, and described as follows: located _____, number of lots proposed _____, total acreage of tract _____, said applicant hereby submits said plan as a DEFINITIVE subdivision plan in accordance with the Rules and Regulations Governing the Subdivision of Land of the Lanesborough Planning Board and makes application to the Board for approval of said plan.

The undersigned's title to said land is derived from _____, by deed dated _____ and recorded in the Northern Berkshire Registry of Deeds Book ____, Page ____, or Land Court Certificate of Title No. _____, Registry of Deeds Book ____, Page ____, and said land is free from encumbrances except for the following: _____

Applicant's name _____
address _____

telephone _____
signature _____

owner's signature and address if not the applicant, or applicant's authorization if not the owner:

Received by Town Clerk:

- 1. ___ 12 (twelve) copies of plan, plus one for the Board of Health
- 2. ___ application fee of \$ _____ (\$50 per lot if preliminary plan filed; otherwise \$500 per lot)
- 3. ___ names and mailing addresses of all abutters (from most recent tax list)
- 4. ___ optional: acetate overlays
- 5. ___ Designer's Certificate (Form D)

date _____
time _____
signature _____

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FORM C-1: CERTIFICATE OF DETERMINATION FOR DEFINITIVE PLAN

Town Clerk, Town of Lanesborough, Mass. _____, 19__

It is hereby certified by the Planning Board of the Town of Lanesborough, Massachusetts, that at a duly called and properly posted meeting of said Planning Board, held on _____, 19__, it was voted to approve/disapprove with modifications/disapprove the definitive subdivision plan entitled: _____

designed by _____, dated _____, 19__, located _____, number of proposed lots: _____, originally filed with the Planning Board on _____, 19__.

submitted by: _____ owned by: _____
address: _____ address: _____

The following modifications apply/The plan was disapproved for the following reasons:

Endorsement of the approval is conditional upon the provision of a performance guarantee, in the form of a covenant/agreement duly executed and approved, to be noted on the plan and recorded with the Northern Berkshire Registry of Deeds; said form of guarantee may be varied from time to time by the applicant subject to agreement on the adequacy and amount of said guarantee by the Planning Board. Modifications must also be shown on the plan before its endorsement and recording

NOTE TO PLANNING BOARD: Conditions should be written on the endorsed plan that is recorded or should be set forth in a separate instrument, which could be a copy of the approval vote, and which should be referenced on the endorsed and recorded plan.

NOTE TO TOWN CLERK: The Planning Board should be notified immediately of any appeal to the Superior or Land Court on this subdivision approval made within the statutory 20-day appeal period. If no appeal is filed with your office, the Planning Board should be notified at the end of the 20-day appeal period in order that the plan(s) may be endorsed.

A true copy, attest:

Clerk, Lanesborough Planning Board

duplicate copy sent to applicant on _____

Lanesborough Planning Board

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FORM D: DESIGNER'S CERTIFICATE

_____, 19__

To the Planning Board of the Town of Lanesborough, Mass.:

In preparing the plan entitled _____ and dated _____, 19__, I hereby certify that the above-named plan and accompanying data is true and correct to the accuracy required by the current Rules and Regulations Governing the Subdivision of Land in Lanesborough, Massachusetts, and required by the rules of the Massachusetts Registries of Deeds and my source of information about the location of the boundaries shown on said plan was one or more of the following:

- 1. Deed from _____ to _____ dated _____, 19__, and recorded in the Northern Berkshire Registry Book __, Page ____.
- 2. Other deeds and plans, as follows: _____

_____.
- 3. Oral information furnished by _____

_____.
- 4. Actual measurement on the ground from a starting point established by _____

_____.
- 5. Other sources: _____

_____.

Seal of Surveyor:

signature of Registered Land Surveyor

address

Registration No. _____

Seal of Professional Engineer:

signature of Registered Professional Engineer

address

Registration No. _____

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FORM E: CERTIFICATE OF AMENDMENT, MODIFICATION, OR RESCISSION OF APPROVAL OF DEFINITIVE SUBDIVISION PLAN

Town Clerk, Town of Lanesborough, Mass. _____, 19__

On the motion/petition of _____, dated _____, 19__, and in accordance with M.G.L. Chapter 41, Section 81-W, it is hereby certified by the Planning Board of the Town of Lanesborough, Massachusetts, that at a duly called and properly posted meeting of said Planning Board, held on _____, 19__, it was voted to amend/modify/rescind the approval of the definitive subdivision plan entitled: _____ owned by _____, of _____, of ____ plan(s) dated _____, 19__ (and revised on _____, 19__), designed by _____, recorded in Northern Berkshire Registry of Deeds, Plan Book __, Page __, (performance guarantee being _____ and recorded in Book __, Page __), land located _____ and showing ____ proposed lots, by making the following amendments or modification(s)/by rescinding the approval for the following reasons:

All prior conditions of approval shall remain in full force and effect until such time as they are met. Pursuant to M.G.L. Chapter 41, Section 81-W, this Amendment/Modification/Rescission shall take effect when the following are duly recorded by the Planning Board with the Northern Berkshire Registry of Deeds: the plan as originally approved, or a copy thereof, a certified copy of this vote making such Amendment/Modification/Rescission, and any plan or other document referred to in this vote. Said recording is to be at the expense of the applicant in the case of Amendment or Modification.

The Amendment/Modification/Rescission of the approval of this plan does/does not affect the lots in the subdivision that have been sold or mortgaged in good faith and for a valuable consideration. The consent of the owner(s) of lots, and of the holder(s) of the mortgage or mortgages affected are attached.

NOTE TO TOWN CLERK: The Planning Board should be notified immediately of any appeal to the Superior or Land Court on this subdivision Amendment/Modification/Rescission of the approval made within the statutory 20-day appeal period. If no appeal is filed with your office, the Planning Board should be notified at the end of the 20-day appeal period in order that the originally approved plan may receive an appropriate endorsement and be recorded along with a registered copy of the certified vote amending/modifying/rescinding the approval.

A true copy, attest: _____

Clerk, Lanesborough Planning Board _____

duplicate copy sent to applicant on _____ Lanesborough Planning Board

FORM F: COVENANT

_____, 19__

Town of Lanesborough, Massachusetts

KNOW ALL MEN AND WOMEN by these presents that the undersigned has submitted an application dated _____, 19__, to the Lanesborough Planning Board for approval of a definitive plan of a subdivision of land entitled: _____, designed by _____, dated _____, 19__, and owned by _____, address: _____,

land located _____ and showing _____ proposed lots. The undersigned has requested the Planning Board to approve such plan without requiring a performance bond.

IN CONSIDERATION of said Planning Board of Lanesborough in the county of Berkshire approving said plan without requiring a performance bond, the undersigned hereby covenants and agrees with the inhabitants of Lanesborough as follows:

1. That the undersigned is the owner in fee simple absolute of all the land included in the subdivision and that there are no mortgages of record or otherwise on any of the land, except for those described below, and that the present holders of said mortgages have assented to this contract prior to its execution by the undersigned. (If there is more than one owner, all must sign. The applicant may be an owner or the agent, representative, or assigns of an owner, but the owner of record must sign the covenant.)
2. That the undersigned will not sell or convey any lot in the subdivision or erect or place any permanent building on any lot until the construction of ways and installation of municipal services necessary to adequately serve such lot has been completed in accordance with the covenants, conditions, agreements, terms, and provisions as specified in the following:
 - a. The Application for Approval of Definitive Plan (Form C).
 - b. The M.G.L. Chapter 41 and the Rules and Regulations Governing the Subdivision of Land in Lanesborough.
 - c. The certificate of approval and the conditions of approval specified therein issued by the Planning Board dated _____, 19__.
 - d. The definitive plan as approved and as qualified by the certificate of approval.
 - e. Other document(s) specifying construction to be completed, namely:

_____.

However, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell or convey any lot, subject only to that portion of this covenant which provides that no lot be sold or conveyed or shall be built upon until ways and services have been provided to serve such lot.

3. That this covenant shall be binding upon the executors, administrators, devisees, heirs, successors, and assigns of the undersigned and shall constitute a covenant running with the land included in the subdivision and shall operate as restrictions upon the land.
4. That particular lots within the subdivision shall be released from the foregoing conditions upon the recording of a certificate of performance executed by a majority of the Planning Board and enumerating the specific lots to be released.
5. That nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board.
6. That the undersigned agrees to record this covenant with the Northern Berkshire Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the definitive subdivision plan as approved.

FORM G: PERFORMANCE GUARANTEE AGREEMENT

_____, 19____
Town of Lanesborough, Massachusetts

AGREEMENT made this date between the Town of Lanesborough and _____,
hereinafter referred to as "the applicant" of address _____
_____, to secure construction of ways and installation of municipal services in the subdivision of
land shown on a plan entitled: _____, designed by _____
_____, dated _____, 19____, and owned by _____
_____, address: _____,
land located _____ and showing _____ proposed lots.

KNOW ALL MEN AND WOMEN by these presents that the applicant hereby binds and obligates
himself, his or its executors, administrators, devisees, heirs, successors, and assigns to the Town of Lanes-
borough, a Massachusetts municipal corporation, acting through its Planning Board, in the sum of _____
dollars, and has secured this obligation by depositing with the Treasurer of said Town of Lanesborough
one or more of the following:

- ___ 1. a deposit of money in the above sum to be deposited in a subdivision escrow account in the name of the town.
- ___ 2. a surety bond to secure the above sum of money.
- ___ 3. an instrument of transfer to the Planning Board of said town, duly acknowledged, and prepared in a suitable form pursuant to the provisions of the Massachusetts General Laws for the following type of negotiable security: _____. Said instrument of transfer shall also specify the above sum of money as a security for performance by the applicant of construction of the ways and installation of municipal services in the aforesaid subdivision and, where apt, a new certificate shall also be deposited with said Treasurer. Said certificate shall be free from encumbrances and shall be issued pursuant to M.G.L. Section 30, Chapter 156-B, in the name of the Lanesborough Planning Board and shall express on its face that it is held as collateral security to insure the performance by the applicant of all covenants, conditions, agreements, terms, and provisions listed below.
- ___ 4. a deposit of money for the above sum represented by Bank Passbook No. _____ with an order drawn on the _____ Bank of _____, payable to the order of the Lanesborough Planning Board.
- ___ 5. by the lender retaining said sum of money of said principal sum otherwise due the applicant (list stages and dates of completion on an attached page).

The above money is to be used to insure the performance by the applicant of all covenants, conditions, agreements, terms, and provisions contained in the following:

- 1. Application for Approval of Definitive Subdivision Plan (Form C), dated _____;
- 2. The M.G.L. Chapter 41 and the Planning Board's Rules and Regulations governing this subdivision and dated January 13, 1975.
- 3. Conditions included in the Certificate of Approval (Form C-1) issued by the Planning Board and dated _____;
- 4. The definitive plan as qualified by the Certificate of Approval; and
- 5. Other document(s) specifying construction or installation to be completed, namely (specify other documents, if any, and list lots secured if only a part of the subdivision is secured by a deposit of

money): _____

_____.

This agreement shall remain in full force and effect until the applicant has fully and satisfactorily performed all obligations or has elected to provide another method of securing performance as provided in M.G.L. Chapter 41, Section 81-U.

Upon completion by the applicant of all obligations as specified herein, on or before _____, 19____, or such later date as may be specified by vote of the Planning Board with a written concurrence of the applicant, the deposit of money including all interest accrued thereon shall be returned to the applicant by said town and this agreement shall become void. In the event the applicant should fail to complete the construction of ways and installation of municipal services as specified in this agreement and within the time herein specified, the deposit may be applied in whole, or in part, by the Planning Board for the benefit of the Town of Lanesborough to the extent of the reasonable cost to the town of completing such construction or installation as specified in this agreement. Any unused money and the interest accrued on the deposit of money, unused portion of a surety bond, unused funds resulting from negotiated securities, any securities which are not negotiated, and any bank passbooks will be returned to the applicant upon completion of the work by said town.

The Town of Lanesborough acting by and through its Planning Board hereby agrees to accept the aforesaid money in the amount and form specified in this agreement as security for the performance of the project as aforesaid. Any amendments to this agreement and/or to the aforesaid security shall be agreed upon in writing by all parties to this agreement.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of _____, 19____.

Duplicate copy sent to:

- ___ Applicant
- ___ Planning Board
- ___ Town Clerk
- ___ Town Treasurer
- ___ Board of Selectmen
- ___ Surety, corporation originally issuing negotiable security, bank, or lender

Lanesborough Planning Board (majority)

Signature of Applicant

COMMONWEALTH OF MASSACHUSETTS

Berkshire County, ss _____, 19____

Then personally appeared _____, one of the above-named members of the Planning Board of Lanesborough, Massachusetts, and the applicant and acknowledged the foregoing instrument to be the free act and deed of said parties before me.

Notary Public
My commission expires _____

FORM H: CONVEYANCE OF EASEMENTS AND UTILITIES

_____ of _____
(name of owner) (address of owner, including county and state)

_____, for the consideration of _____,
hereby grants, transfers, and delivers unto the Town of Lanesborough, a Massachusetts municipal corporation in Berkshire County, the following:

- A. The perpetual rights and easements to construct, inspect, repair, remove, replace, operate, and forever maintain (1) a sanitary sewer or sewers with any manholes, pipes, conduits, and other appurtenances, (2) pipes, conduits, and their appurtenances for the conveyance of water, and (3) a covered surface and ground water drain or drains with any manholes, pipes, conduits, and their appurtenances, and to do all other acts incidental to the foregoing, including the right to pass along and over the land for the aforesaid purposes, in, through, and under the whole of _____, dated _____.
- B. The perpetual rights and easements to use for _____ (describe use or purpose) of the following parcel of land situated on _____ (street) in said Lanesborough and bounded and described as follows:

The grantor warrants that the aforesaid easements are free and clear of all liens or encumbrances, that he/she/it has good title to transfer the same, and that he/she/it will defend the same against claims of all persons. This is not a homestead property.

For grantor's title see deed from _____, dated _____, 19____, recorded in the Northern Berkshire Registry of Deeds, Book _____, Page _____, or Land Court Certificate of Title No. _____ recorded in Northern Berkshire Registry of Deeds Book _____, Page _____.

And (complete if a mortgage exists) _____ of address _____, the present holder of a mortgage on the above described land, which mortgage is dated _____, 19____, and recorded in said Deeds, Book _____, Page _____, for consideration paid, hereby releases unto the Town forever from the operation of said mortgages, the rights and easements hereinabove granted and assents thereto.

Authorized Signature of Mortgagee Owner

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of _____, 19____.

COMMONWEALTH OF MASSACHUSETTS

Berkshire County, ss _____, 19____

Then personally appeared _____, one of the above-named members of the Planning Board of Lanesborough, Massachusetts, and the applicant and acknowledged the foregoing instrument to be the free act and deed of said parties before me.

NOTE: This conveyance is not effective until accepted by town meeting.

Notary Public

My commission expires _____

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FORM I: PLAN REVIEW REFERRAL FORM

Lanesborough Planning Board

DATE: _____, 19__

TO:

- Building Inspector
- Water District
- Sewer Commission
- Conservation Commission
- Police Department
- Fire Department

- Board of Selectmen
- Town Recreation Committee
- Finance Committee
- Highway Superintendent
- Other: _____
- Other: _____

A definitive subdivision plan entitled _____ and dated _____, 19__, located at _____, was submitted to the Planning Board on _____, 19__, by _____, whose address is _____. The Planning Board is submitting this plan to your agency for review and recommendations. Please consider the following checked subject area(s), among others, in your review of this plan: (Planning Board will check off applicable subject areas to be reviewed)

- Water system
- Sewer system
- Road design and layout
- Wetlands, floodplains
- Fire protection
- Police protection

- Engineering specifications
- Drainage
- Open space
- Street lights
- Other: _____
- Other: _____

Please submit any comments and recommendations regarding this plan in writing to the Planning Board no later than _____.

Clerk, Lanesborough Planning Board

FOR YOUR INFORMATION:

A public hearing to discuss this plan has been scheduled for _____ p.m. on _____ at _____. The Planning Board may disapprove the plan only if it fails to conform to the Rules and Regulations Governing the Subdivision of Land, or the recommendations of the Board of Health.

Date Conveyance (Form H) received _____
 Date of Amendments or extensions to original performance guarantee _____
 Description of amended performance guarantee _____
 Date approval amended, modified, or rescinded _____
 Other: _____

Releases:

Lot Numbers:	Date of Lot Releases:	Description of performance guarantee:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Date of Certificate of Completion (Form K) _____

INSPECTIONS:

Date:	Type:	Signature of Inspector after inspection:
_____	clearing, grubbing, excavation	_____
_____	drainage system	_____
_____	water system	_____
_____	sewer system	_____
_____	underground utilities	_____
_____	backfill, fill, and rough grading	_____
_____	gravel base	_____
_____	bituminous concrete paving:	_____
_____	binder course, curbs, berms	_____
_____	bituminous concrete paving:	_____
_____	surface course	_____
_____	sidewalks	_____
_____	topsoil, seed, and plantings	_____
_____	street trees	_____
_____	road signs	_____
_____	street lights	_____
_____	fire hydrants	_____
_____	other:	_____
_____		_____
_____	bounds	_____
_____	final inspection	_____
_____	final clean-up	_____

FORM K: CERTIFICATE OF COMPLETION AND
RELEASE OF MUNICIPAL INTEREST IN SUBDIVISION PERFORMANCE SECURITY

_____, 19____
Planning Board, Lanesborough, Massachusetts

Subdivision name: _____
Owner: _____
Owner's address: _____
Applicant: _____
Applicant address: _____
Date of Subdivision Plan: _____
Designer of plan: _____
Land located: _____

- Plan recorded at Northern Berkshire Registry of Deeds
- Plan recorded at Registered Land Office of Northern Berkshire Registry of Deeds

Certificate of Title No. _____. Plan found in Book No. _____, Page No. _____.

Type of Performance Security:

- Covenant, dated: _____
Covenant recorded at Northern Berkshire Registry of Deeds, Book No. _____, Page No. _____, or
Northern Berkshire Land Court Certificate of Title No. _____, Book No. _____, Page No. _____.
- Bond, agreement dated: _____
Surety Company: _____
Address: _____
- Deposit of money, agreement dated: _____
Bank, if bank passbook: _____
Address: _____
- Other Security (list type): _____
dated: _____
- Letter of Credit, agreement dated: _____
Bank: _____
Address: _____

The undersigned, being a majority of the Lanesborough Planning Board, have determined that the construction of ways and installation of municipal services in the subdivision referred to above have been fully and satisfactorily completed by the applicant in accordance with the Board's rules and regulations to serve the following enumerated lots: _____.

Pursuant to M.G.L. Chapter 41, Section 81-U, and in consideration of completion of said construction, the Town of Lanesborough, a Massachusetts municipal corporation, acting through its Planning Board, hereby

releases its interest in the performance security referred to above.

Duly executed as a sealed instrument this _____ day of _____, 19____.

Lanesborough Planning Board (majority)

COMMONWEALTH OF MASSACHUSETTS

Berkshire County, ss _____, 19____

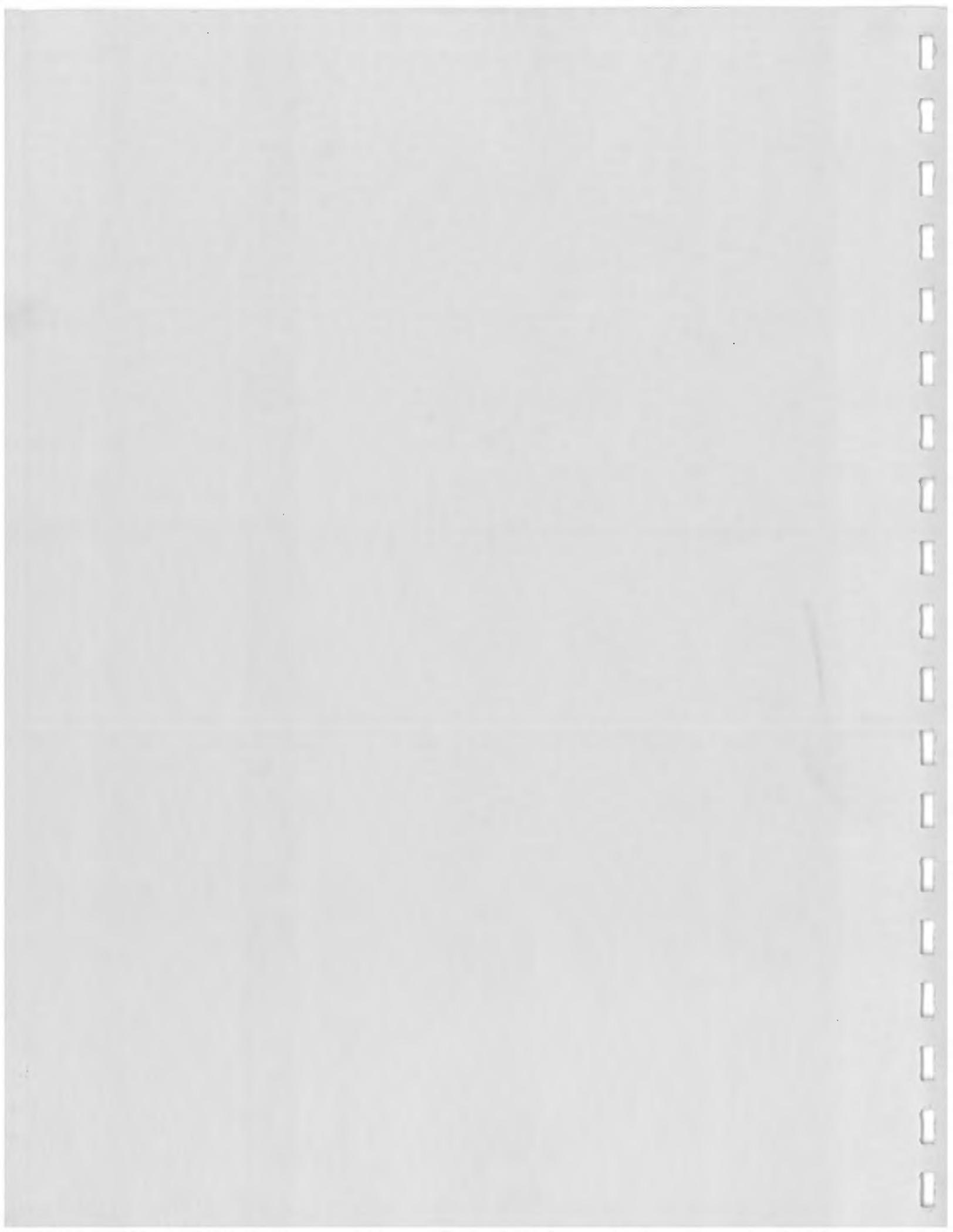
Then personally appeared _____, one of the above-named members of the Planning Board of Lanesborough, Massachusetts, and the applicant and acknowledged the foregoing instrument to be his/her free act and deed before me.

Notary Public

My commission expires _____

Duplicate copy sent to:

- Applicant
- Planning Board
- Town Clerk
- Town Treasurer
- Board of Selectmen
- Surety, corporation originally issuing negotiable security, bank, or lender



SCHEDULE OF KEY WRITTEN NOTICES OF ACTION ON SUBDIVISIONS - G.L. CHAPTER 41

A GUIDE ONLY - REFER TO CHAPTER 41 FOR SPECIFIC DETAILS

ITEM	REQUIRED OF THE APPLICANT	REQUIRED OF THE PLANNING BOARD	TIME LIMIT
Plans believed not to require approval (s.81-P)	Submit plan, copies and application; notify town or city clerk or submittal.	Endorse and return plan or, if endorsement is refused, give written notice that the plan requires approval to town clerk and applicant by certified mail.	Within 21 days of submission. No action, plan deemed approved.
Preliminary subdivision	Residential - optional Non-residential - mandatory Submit plan, copies and application to board of health; notify town clerk	Notify town clerk in writing and applicant by certified mail of approval with or without modifications or disapproval and the reasons therefor.	Within 45 days of submission.
Definitive subdivision plans	Notify town clerk by cert. mail or by delivery, of submission to planning board and board of health.	Hold public hearing (s.81-T). Notify town clerk and applicant by certified mail of approval with or without modifications or disapproval and list specific reasons therefor.	After health board report or 45 days but within 135, res/no prelim; 90 da./non-res.
Bond or other performance security	Furnish bond, passbook, check, other security or lender's agreement, specify completion time.	Accept completion time, execute agreement for the release of lots in a form suitable for recording; specify amount of security based on construction costs plus inflation.	Within 20 days of approval or upon request to replace covenant.
Covenant	Covenant "given" by the applicant in writing and referred to or inscribed on the plan.	<u>No endorsement of the plan unless either a covenant or an appropriate security given.</u>	Within 20 days of approval or upon request to replace security.
Reduction of security	May request reduction as work progresses.	Must reduce the penal sum of the bond or the amount of security and release the obligations in excess of remaining cost.	None specified.
Extension of time limit for action on a subdivision	Written request by the applicant required.	File with the town clerk a notice of the extension granted - not to exceed the time requested by the applicant.	Upon request - prior to expiration of time for action.
Completion of ways and services	Statement of completion to town clerk by certified mail.	a. either release the covenant by a recordable instrument, or b. release interest in security and return it to whoever provided it, or c. notify town clerk in writing and applicant by certified mail of specified details not completed in accord with requirements and planning board rules.	Within 45 days of submission of statement of completion to town clerk.

"Submission" = date of mailing to town clerk or delivery at planning board meeting

"town clerk" may be city clerk

"certified" and "registered" mail synonymous

Subdivision Approval Process

