

# **RULES AND REGULATIONS**

## **GOVERNING THE SUBDIVISION OF LAND**

**[HISTORY: Adopted by the Planning Board of the Town of Gill effective August 13, 2009 (originally effective 3-5-1973). Subsequent amendments will be noted where applicable.]**

### **STATUTORY AUTHORITY**

MGL c. 41, § 81K et seq. (Subdivision Control Law)

### **ARTICLE I Introduction**

#### **1-1. Purpose.**

The Subdivision Control Law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of Gill 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 the subdivisions and, in proper cases, parks and open areas. The power of the Planning Board and of a 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 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 ensuring compliance with the applicable zoning ordinances or bylaws; for securing adequate provision for 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 the public ways in the Town and with the ways in neighboring subdivisions.

#### **1-2. Interpretation of rules and regulations.**

The Town of Gill shall not be held responsible for any individual interpretation of these rules and regulations. The word “shall” is mandatory and the words “should” and “may” are permissive. In the event of conflicting provisions in the text of these regulations, the more restrictive shall apply.

#### **1-3. Definitions.**

For the purpose of these regulations, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ATTORNEY.** The attorney employed by the town unless otherwise stated.

**BLOCK.** The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

**BOARD.** The Planning Board of the Town of Gill.

**CONCEPT PLAN** or **SKETCH PLAN.** A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas and water and sewer systems presented to the town officials at the pre-application meeting.

**CONTOUR MAP.** A map on which irregularities of land surface are shown by lines connecting points of equal elevations. “Contour interval” is the vertical height between contour lines.

**CORNER LOT.** A lot bordered on at least the front and side by streets.

**EASEMENT.** A grant by an owner of land for a specific use by persons other than the owner.

**ENGINEER.** A registered engineer.

**DEFINITIVE PLAN.** The final map or drawing indicating the proposed layout of the subdivision to be submitted to the Planning Board for their consideration and which meets all the requirements of these regulations.

**FRONTAGE.** The boundary of a lot coinciding with a street line provided that there must be both rights-of-access and potential vehicular access across that boundary to a potential building site, and the street is a public way or subdivision way and has been determined by the Planning Board to provide adequate access to the premises under the provisions of the Subdivision Control Law and the Gill Subdivision Regulations currently in effect. Lot frontage shall be measured continuously along one street line between side lot lines or, in the case of corner lots, between one side lot line and the midpoint of the corner radius. The portion of a lot fronting on a discontinued road, or a road which is not continuously constructed to a point beyond the border of the subject lot, or a way not adequate in the opinion of the Planning Board does not constitute frontage for purposes of Approval Not Required Plans.

**LOCUS MAP.** A map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

**LOT.** A parcel of land

**LOT, FLAG.** A lot which abuts a right-of-way via a narrow strip of land which connects that portion of the lot containing the required lot width to the right-of-way and is in conformance with Gill Zoning Bylaws.

**MINIMUM SUBDIVISION DESIGN STANDARDS.** The specifications of this chapter and other applicable laws and regulations.

**OWNER.** An individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

**PEDESTRIAN WAY.** A public right-of-way across or within a block intended to be used by pedestrians.

**PERSON.** Any individual, firm, association, syndicate or partnership, corporation, trust or any other legal entity.

**PRELIMINARY PLAN.** The preliminary map or drawing indicating the proposed layout of the subdivision to be submitted to the Planning Board for their consideration, and which meets all the requirements of this chapter.

**PRIVATE STREET.** A street serving as vehicular access to one or more parcels of land which is not dedicated to the public as right-of-way.

**PROTECTIVE COVENANTS.** Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

**RIGHT-OF-WAY.** Land dedicated and used for public purposes, such as a street, alley or crosswalk.

**STREET.** A public way, a private way shown on a plan approved under the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in Gill 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 abutting land or land to be served thereby and for the installation of municipal services to serve such land and the buildings erected or to erected thereon.

**STREET WIDTH.** For the purpose of this chapter, the width of the paved way.

**SUBDIVIDER.** The owner of land proposed for subdivision or his or her authorized agent who commences proceedings under this chapter to effect a subdivision of land.

**SUBDIVISION.**

- (1) The described tract of land which is to be or has been divided into two or more parcels.
- (2) The term includes resubdivision and, where appropriate to the context, relates either to the process of subdividing or to the land subdivided.

**TRAIL.** A right-of-way designed for movement of non-motorized traffic.

**1-4. Plan filing at registry.**

No plan, whether of a subdivision or not, shall be accepted at the Registry of Deeds or Land Court unless it has been endorsed by the Planning Board (or in special cases is accompanied by a Town Clerk's certificate) as either being approved or not requiring approval.

**1-5. Building permits.**

No building permits will be issued for lots in a subdivision unless the subdivision plans have been endorsed and any conditions endorsed on the plan have been satisfied or waived.

**1-6. Street acceptance.**

Street acceptance and installation of municipal services on any way within a subdivision but not

shown on an endorsed subdivision plan can be done only with a two-thirds (2/3) vote at Town Meeting. (See MGL c. 41, § 81Y.)

ARTICLE II  
**Plans for Subdivision of Land**

ARTICLE NOTES:

- A. Plans believed to require endorsement only (2-1).
- B. Subdivision plans:
  - (1) Preliminary plans (2-2).
  - (2) Definitive plans (2-3).

**2-1. Plans believed to require endorsement only.**

- A. Endorsements. These plans require only an endorsement by the Planning Board.
  - (1) The applicant for such endorsement must submit to the Planning Board the original plan, including a locus map showing major transportation routes and other major landmarks, which will be returned; five (5) copies which will not be returned; and a Form A, Application for Subdivision Believed Not Requiring Approval, with a description of the intended use of the land. The applicant must also notify the Town Clerk by either delivering or sending by registered mail a notice giving the date of submission, description of the land sufficient for location (including map and parcel number) and the name and address of the owner. In order to be considered, it is the intent of the Subdivision Control Law that any subdivision plan filed with the Planning Board shall receive approval if said plan conforms to the reasonable rules and regulations of the Planning Board pertaining to subdivisions of land; provided, however, that such Board may, when appropriate, waive, as provided for in MGL c. 41, § 81R, such portions of the rules and regulations as deemed advisable. The Planning Board shall act on the plan within twenty-one (21) days after its submission.
  - (2) Plan submissions. In order to be considered by the Board, a fee shall be paid in accordance with Gill Fee Schedule and such plans shall show all of the following:
    - (a) Any existing structures on the land and dimension of yards relating to such structures; as well as frontage and area of each lot on the plan.
    - (b) Any existing structures on any remaining adjoining land owned by the applicant and dimensions of yards relating to such structures;
    - (c) Remaining frontage of any adjoining land in the same ownership;
    - (d) Present owner of the land shown of the plan, and all abutting owners; and
    - (e) Location of any easement or way, public or private across the land, with a designation as to the use of the same, and any public or private ways abutting said land.
- B. Endorsements by the Planning Board. The Planning Board shall endorse such plan as not

requiring approval unless it shows a subdivision. MGL c. 41, § 81L, states that "subdivision" shall mean the division of a tract of land into two or more lots and shall include resubdivision. However, 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 when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in Gill, 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 the Gill Zoning Bylaw for erection of a building on such lot. Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as to leave any lot so affected without said required frontage 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 Gill into separate lots on each of which one of such buildings remains standing shall not constitute a subdivision.

- (1) Specifications for ways-in-existence. Grounds on which an existing way will be found adequate for providing frontage in Gill, shall provide a means of reaching the premises in questions, as follows: right-of-way width generally of thirty-three (33) feet or more with no locations of less than twenty-four (24) feet; horizontal and vertical alignment of the traveled way providing at least one hundred fifty (150) feet stopping sight distance; grades not exceeding ten percent (10%) except for short intervals; adequate provisions for drainage and snow removal; traveled way constructed at least eighteen (18) feet wide with at least eight (8) inches of gravel and, in cases where the way potentially provides access to ten (10) or more dwelling units, bituminous paving of the traveled way; or where provisions satisfactory to the Planning Board and the Highway Superintendent have been made to secure compliance with these standards without cost to the Town.
- C. Notice to Town Clerk. The Planning Board must act and notify the Town Clerk within twenty-one (21) days of submission, or they are deemed to have determined that approval was not required.

## **2-2. Preliminary plans for subdivision requiring approval.**

- A. General. To save costly changes in detailed engineering drawings, it is suggested but not required that a preliminary plan of any proposed residential subdivision be submitted so that any differences between the subdivider and the Town may be resolved at an early stage in the process. A preliminary plan must be submitted for all nonresidential subdivisions. All preliminary plans must be prepared by a registered land surveyor and construction details shall be designed by a registered civil engineer unless waived by the Planning Board.
- B. A request for a waiver of a requirement, rule, or regulation shall be made in writing by the applicant, and submitted, whenever feasible, with the submission of the Preliminary Plan.
- C. Fees. The applicant for approval of a preliminary plan must submit to the Town Planning Board, twelve (12) copies of the plan, one copy reduced to 11"x17", a Form B, Application

for Approval of a Preliminary Plan, and a certified check made payable to the “Town of Gill”. The cost of a preliminary plan is as provided in Section 6-3 A.

- D. Submissions. If a preliminary plan is submitted, it is requested that the following be included as part of the submission:
- (1) The subdivision name, boundaries, north point, date, scale, legend, and stating "Preliminary Plan";
  - (2) The names of the record owner and the applicant and the name of the designer, engineer, and/or surveyor;
  - (3) The names of all abutters, as determined from the most recent local tax list;
  - (4) The existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner;
  - (5) The proposed system of drainage including adjacent existing natural waterways in a general manner; proposed sewer system in a general manner and if the system is to be by individual on-site sewage disposals systems, then sufficient deep hole and percolation tests to establish the general suitability of the locus for subsurface sewer disposal;
  - (6) The approximate boundary lines of proposed lots, with approximate areas and dimensions;
  - (7) The approximate location of all proposed houses and accessory structures.
  - (8) The names, approximate location and widths of adjacent streets;
  - (9) The topography of the land in a general manner;
  - (10) A locus plan of the subdivision, showing its relation to the surrounding area, at a scale of one (1) inch equals five hundred (500) feet;
  - (11) In the case of a subdivision covering less than all contiguous land owned by the applicant or owner, a plan showing in a general manner the proposed overall development of all of said land;
  - (12) Location of all zoning district boundaries, if encountered.
- E. Review by Board. The Planning Board shall act within forty-five (45) days of submission of a preliminary plan. Approval of a preliminary plan does not constitute approval of a subdivision, and a preliminary plan shall not be recorded in the Registry of Deeds.
- F. Town board review. At this stage, arrangements for sanitary sewerage disposal, performance guarantees, and required installation of facilities shall be discussed in a general manner with the appropriate Town boards. This shall be directed through the Planning Board to the Board of Health, the Fire Chief, the Building Inspector, Town Attorney, Highway Superintendent, and the Conservation Commission if appropriate.

### **2-3. Definitive plans.**

- A. General.

- (1) The following must be filed at the Town Clerk's Office for submittal to the Planning Board in applying for approval of a definite plan.
  - (a) A properly completed application form, Form C, Application for Approval of a Definitive Plan;
  - (b) The cost of a Definitive Plan is as provided in Section 6-3 A. The applicant is responsible for paying all costs associated with the application.
  - (c) Twelve (12) copies of the definitive plan and road profiles, dark line on white background;
  - (d) A list of all landowners abutting the land shown on the subdivision plan as appearing on the most recent tax list in accordance with MGL Chapter. The list shall be typewritten and in label format.
- (2) The applicant must submit a total of twelve (12) prints and one set reduced to 11"x17" to be distributed as follows: Planning Board seven (7) copies; Highway Superintendent [one (1) copy]; Board of Health [one (1) copy]; Fire Chief [one (1) copy]; Inspector of Buildings [one (1) copy]; Conservation Commission [one (1) copy]. The final, original plan is to be retained by the applicant until signed by the Board.

B. Definitive Plan submission requirements.

- (1) The Definitive Plan shall be prepared by a registered land surveyor. Construction details shall be designed by a registered civil engineer. The Plan shall be prepared on linen or polyester film, single matte with a thickness of .004 mils, and must have an opacity so as to allow consistent diazo and microfilm reproduction. All plans shall be prepared using a compatible ink with excellent cohesiveness which will produce a permanent bond and result in a plan with long-term durability. Linen or polyester reproductions shall be accepted provided they comply with the other requirements.
- (2) Scale shall be one (1) inch equals forty (40) feet or other scale acceptable to the Board, sheet size not to exceed twenty-four (24) inches by thirty-six (36) inches, using an index sheet if necessary. The plan shall contain the following information:
  - (a) Subdivision name, boundaries, north point, date and scale.
  - (b) Name and address of record owner, subdivider, surveyor and engineer.
  - (c) Location and names of all abutters as they appear in the most recent tax list.
  - (d) Existing watercourses.
  - (e) Sufficient data to determine the location, direction, width, and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. The areas of all lots shall be shown, and all lots shall be numbered.
  - (f) Location of all permanent monuments properly identified as to whether existing or proposed.
  - (g) Location, names and present widths of streets bounding or approaching the subdivision.

- (h) Indication of purpose, width, and location of easements outside of the road lines.
- (i) Suitable space for recording the action of the Planning Board and the Town Clerk.

(NOTE: Items in Subsection B(2)(j), (k), (l) and (m) may be submitted on the same sheet as the Definitive Plan or on separate sheets.)

- (j) Existing and proposed topography at two-foot contour intervals.
- (k) Existing and proposed center-line profiles of proposed streets and of intersecting streets for at least one hundred (100) feet each side of the intersection of the street center lines at a horizontal scale of one (1) inch equals forty (40) feet and vertical scale of one (1) inch equals four (4) feet, or such other scales acceptable to the Board. Elevations shall be indicated every fifty (50) feet on straight grades and every twenty-five (25) feet on vertical curves. All elevations shall refer to the US Coast and Geodetic Survey datum where available. Profile stationing shall be referenced to a plan drawing.
- (l) Proposed layout (including cross sections and profiles) of sewerage, storm drainage and water supply, including invert elevations, slopes, capacity, and velocity.
- (m) Where sewage disposal is to be by individual on-site sewage disposal systems, the definitive plan shall be accompanied by a feasibility report of the proposed sanitary sewage systems certified by a registered civil engineer.
- (n) Indication of all areas believed to be subject to control under the Wetlands Protection Act, MGL c. 131, § 40, under procedures outlined at 310 CMR 10.00.
- (o) Identification of zoning districts.
- (p) A locus plan of the subdivision, showing the outline of the parcel being subdivided, the pattern of streets within it, streets in the surrounding area, and zoning district and overlay district boundaries, at the same scale as the current Assessors' map.
- (q) An overlay at the same scale as the Definitive Plan showing the USDA Natural Resource Conservation Service interpretation of suitability for on-site sewerage disposal, or showing USGS surgical geology, or both.
- (r) Test pit logs for locations selected by the Planning Board and shown on one of the above overlays, with not less than one (1) pit per four (4) proposed lots, selected to reveal general patterns of subsurface characteristics, after consultation with the Board of Health and the Conservation Commission.
- (s) Where connection to the public water system is not proposed, information indicating why such connection is not feasible, description of provisions to be made for water for fire fighting, and information adequate to allow determination of compliance with DEP requirements regarding potable water quality and quantity.



- (t) Storm water management plan in compliance with the DEP storm water regulations.
  - (u) An erosion control plan, indicating the erosion control measures to be employed, including description of locations of temporary stockpiles, spoil areas, temporary drainage systems, slope stabilization techniques, sediment basins, etc., and narrative description of how erosion from individual lots onto streets and into drainage systems is proposed to be controlled. Review comments on the plan by the Conservation Commission and by the Soil Conservation Service or by others acceptable to the Board as expert in soil erosion. Any site disturbing more than one (1) acre must have a detailed Storm Water Pollution Prevention Plan (SWPPP) and an Erosion Control Plan submitted to and approved by the EPA or its designee in accordance with EPA's NPDES Phase II regulations.
  - (v) Landscaping Plan showing the location of all existing and proposed landscaping. Indicate which mature trees are proposed to be removed.
- C. Electronic file. The applicant shall also submit two (2) copies of an electronic file in PDF format of the plan
- D. Sewer extension permits.
- (1) Under the provisions of MGL c. 21, § 43, an application must be submitted by the applicant to the Massachusetts Department of Environmental Protection for a permit to allow construction of any sewer extensions of a public sewerage system, including construction plans for pumping stations, forced mains, siphons and other appurtenances.
  - (2) It shall be the responsibility of the applicant to prepare said application, submit it for signature to the Highway Superintendent, and forward the completed application form to the Department of Environmental Protection.
- E. Wetlands Protection Act.
- (1) In accordance with MGL c. 131, § 40, no person shall remove, fill, dredge or alter any bank, beach, dune, flat, marsh, meadow or swamp bordering on any existing creek, river, stream, pond, lake or any land under said waters or subject to flooding without filing a written notice of intention to perform said work with the local Conservation Commission and the Department of Environmental Protection.
  - (2) In order to determine if the proposed subdivision, or parts thereof, are subject to the provisions of the Wetlands Protection Act, the Planning Board will, where it deems necessary, submit a copy of the Definitive Plan to the Conservation Commission. The Conservation Commission shall, to the extent practicable, file a report with the Planning Board not later than forty-five (45) days after receipt of the plan stating that the proposed plans are not subject to the provisions of the Wetlands Protection Act, or the Wetlands Protection Act applies to certain designated areas. In the event the plan shall be governed by said Act, the Planning Board shall include in its decision for approval a condition that the applicant shall obtain approval from the Conservation Commission prior to any construction activity in the affected areas.

F. Review by Board of Health.

- (1) The Board of Health shall, within forty-five (45) days after filing of the plan, report to the Planning Board in writing, approval or disapproval of said plan. If the Board of Health disapproves such plan, it 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 therefore in such report, and, where possible, shall make recommendations for the adjustment thereof.
- (2) Such Health Board or Officer shall send a copy of such report, if any, to the person who submitted said plan. Any approval of the plan by the Planning Board shall then only be given on condition that the lots or land, unto which such doubt exists, shall not be built upon without prior written consent of the Board of Health to the Planning Board, and shall endorse on the plan such condition, specifying the lots or land to which said condition applies. Any lot so located that it cannot be serviced by a connection to the municipal sewer system shall be provided with a septic tank and leaching system satisfactory to the Board of Health.

G. Public hearing.

- (1) The Planning Board shall hold a public hearing on the Definitive Plan in accordance with MGL c. 41, § 81T, which requires advertising twice, the first time at least two (2) weeks before the hearing, and notification of all abutters by registered mail. The Board shall submit copies of the plan for review by the Highway Superintendent, Inspector of Buildings, and Fire Department. Within ninety (90) days for nonresidential and ninety (90) days for residential if preliminary plans were submitted, one hundred thirty-five (135) days if a preliminary plan has not been submitted (unless an extension is agreed upon), the Planning Board shall approve, modify and approve, or disapprove the plan, and shall notify the applicant and the Town Clerk of its action, in accordance with MGL c. 41, § 81U.
- (2) Following approval, there is a twenty-day appeal period, after which the Planning Board will endorse its approval of the plan, provided no appeals have been filed and that by then the Board has received satisfactory security for performance of required street and utility improvements, and a linen or polyester reproduction of the approved plan has been provided for the Board's file.
- (3) If the endorsed plan replaces a previously endorsed plan, the applicant shall withdraw the original plan from the Registry of Deeds prior to the endorsement and filing of the new plan.
- (4) The subdivider is to provide the Town with a satisfactory performance guarantee within thirty (30) days after the twenty-day appeals period has expired, and upon acceptance of guarantee, the plan will be endorsed within thirty (30) days by the Planning Board.

H. Approval not acceptance. Approval of a definitive plan does not constitute layout or Town acceptance of any ways, nor does subsequent release of security upon completion of such ways constitute layout or Town acceptance of any street which action is reserved by statute to the Town Meeting.

ARTICLE III

## Design Requirements

### 3-1. Streets.

A. General. Design guidelines. All subdivisions shall be designed and improvements made by the subdivider consistent with the requirements of Article IV. Design and construction shall do the following:

- (1) Reduce, to the extent reasonably possibly, the following:
  - (a) Volume of cut and fill;
  - (b) Area over which existing vegetation will be disturbed.
  - (c) Number of mature trees removed;
  - (d) Extent of waterways altered or relocated;
  - (e) The number of driveways exiting onto existing streets
  - (f) Visual prominence of man-made elements not necessary for safety or orientation;
  - (g) Erosion and siltation;
  - (h) Flood damage.
- (2) Increase, to the extent reasonably possible, the following:
  - (a) Use of collector streets to avoid traffic on streets providing house frontages;
  - (b) Visual prominence of natural feature of the landscape;
  - (c) Vistas and water views from public ways.
  - (d) Street layout facilitating south orientation of houses

B. Design standards.

	<b>Street</b>
Layout Width	50 ft.
Number of moving lanes	2
Width of Lanes	13 ft.
Total Width of pavement (curb to curb)	26 ft.
Sidewalks/Pathways/Trails Required	Determined by the Board
Sidewalk width	Determined by the Board
Curbing Required	Determined by the Board
Curbing Type	Determined by the Board

Curve at center line - min. radius	125 ft.
<b>Grade:</b>	
Maximum	8%
Minimum	0.8%
Safe Stopping sight distance (3.5 ft. above pavement)	200 ft.
Angle - minimum	90%
Offsets (street jogs) – minimum	125 ft.
Radius of edge of layout	30 ft.
Sight stopping distance	200 ft.
	<b>Cul-de-sac *</b>
Length - maximum	800 ft.
Minimum turnaround diameter (layout)	120 ft.
Minimum turnaround diameter (roadway)	100 ft.
Minimum turnaround diameter (roadway inner edge)	40 ft.

\*In addition to the street design standards above, cul-de-sacs must meet these standards as well.

**NOTES:**

A cul-de-sac or a dead-end street shall be defined as a street closed at one (1) end. The length of a cul-de-sac street shall be measured along its center line from the street line of the intersecting street to the center of the turnaround. Cul-de-sac streets and common driveways shall not be permitted to connect into another cul-de-sac street unless the distance measured along the centerlines from the street line of the connecting non cul-de-sac street to the center of the proposed turnaround is not more than eight hundred (800) feet.

**C. Access.**

- (1) No subdivision plan shall be approved unless its streets system will connect with:
  - (a) A way legally accepted by Town Meeting vote; or
  - (b) A way established by county, state, or federal authority; or
  - (c) A way established by a subdivision plan approved in accordance with Subdivision Control Law, or any other way in existence on the date the Subdivision Control Law became effective in Gill if determined by the Planning Board to be sufficient for the needs for access and utilities to serve potential needs of land abutting on or to be served thereby without reduction in the level of traffic service or creation of hazard and,
  - (d) which also meets the following criteria: a subdivision may not be developed off a way that does not meet the design standards here in.

### **3-2. Open space.**

Where appropriate, the Planning Board may require reservation of open space for up to three (3) years upon completion of the subdivision to provide an opportunity for the Town to purchase it for open space or recreation purposes. The Planning Board shall not require reservation of more than ten percent (10%) of the gross area of the subdivision for such purposes, and shall not require reservation of areas smaller than four (4) acres, except in extraordinary circumstances.

### **3-3. Protection of natural features.**

Due regard shall be shown for all natural features, such as mature trees, watercourses, scenic vistas, locations of historical significance, and similar community assets which, if preserved, will add attractiveness and value to the subdivision.

### **3-4. Easements.**

Easements for utilities across lots or centered on rear or side lot lines shall be provided, where necessary, and shall be at least twenty (20) feet wide. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, the Board requires that there be provided a stormwater easement or drainage right-of-way of adequate width [minimum of twenty (20) feet] to conform substantially to the lines of such watercourse, drainage way, channel or stream, and to provide for construction or other necessary purposes.

### **3-5. Environmental assessment.**

A comparative environmental assessment may be required for any subdivision creating frontage of ten (10) or more dwelling units within one thousand (1,000) feet of a perennial river or stream as defined by the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.00). The scope of such assessment, including development alternatives to be compared and consequences to be studied, shall be as agreed to by the Planning Board and may be required to include up to two (2) major alternatives to the plan proposed including a cluster version, with as much of the following information as determined by the Planning Board to be necessary for plan evaluation; and shall be prepared by an interdisciplinary team to include a land surveyor, civil engineer, and an architect or landscape architect, unless otherwise agreed to by the Planning Board.

#### **A. Narrative discussion of differences among alternatives regarding:**

- (1) Impact upon surface water quality and level;
- (2) Impact upon ground water quality and level;
- (3) Material effects upon important wildlife habitats, outstanding botanical features, and scenic or historic environs;
- (4) Capability of soils, vegetative cover, and proposed erosion control efforts to support proposed development without danger of erosion, silting, or other instability;
- (5) Relationship to the requirements of MGL c. 131, §§ 40 and 40A (the Wetlands Protection Act).
- (6) Estimated phosphate and nitrate loading on ground water and surface water from septic tanks, lawn fertilizer, and other activities within the development.

- (7) Lot layout and house siting for potential solar energy capabilities.
- B. Discussion of impact on a waterway of a subdivision with topographical features of more than thirty (30) feet above said waterway.
- C. Environmental assessment process.
  - (1) The applicant shall complete the Environmental Assessment report along with the Preliminary Plan or prior to submission of a Definitive Plan outlining what environmental issues the applicant believes will occur because of this project, including wetlands.
  - (2) The Planning Board will distribute this statement to the Highway Superintendent, Board of Health, Conservation Commission, Town boards and the regional planning commission for review and comment. Comments will be accepted up to twenty-one (21) days from date of receipt of the environmental assessment form.
  - (3) The Planning Board shall review any comments within fourteen (14) days of the close of comment period, determine the issues to be addressed by the applicant, and issue a final scope to the applicant.
  - (4) The applicant shall present responses and alternative as required elsewhere in these regulations relative to each issue raised.
  - (5) The Board shall have forty-five (45) days to review the responses and may work with the applicant to select the most desirable alternative to mitigate environmental concerns.
  - (6) If, upon preliminary review, additional clarification is necessary, the applicant may request a suspension of the forty-five-day period, and request an opportunity to resubmit plans.
  - (7) A final Definitive Plan shall be prepared by the applicant based upon the decision of the Board.

**3-6. Flood Hazard Areas.**

Any portion of a proposed subdivision which is located within the 100-year floodplain as shown on the Town of Gill Flood Insurance Rate Maps (FIRM) together with the Flood Boundary and Floodway Maps contained in the Flood Insurance Study shall meet the following requirements:

- A. All requirements of Section 15 Floodplain regulation of the Gill Zoning Bylaw.
- B. The subdivision, including utilities and drainage, shall be designed to be consistent with the needs to minimize flood damage and provide adequate drainage.
- C. Subdivisions shall include base flood elevation data.

**ARTICLE IV  
Required General Road Improvements and Specifications**

**4-1. Compliance required.**

The following improvements shall be made by the subdivider without expense to the Town.

- A. Street obstructions. The entire area of each street or way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation.
- B. Subsurface removal. All loam, clay, peat or other yielding material shall be removed beneath all street layouts to a depth specified by the Highway Superintendent and shall be replaced with a granular material acceptable to the Highway Superintendent.
- C. Fill types allowable. Whenever it is necessary to install fill to bring a roadway to sub-grade, said fill shall be of a granular material satisfactory to the Highway Superintendent. All fill shall be placed in nine-inch layers compacted to not less than ninety-five percent (95%) of maximum dry density as specified in the Mass Highway Standards. The subdivider shall be responsible for the costs of all soil testing and analysis required by the Highway Superintendent.
- D. Ground water. Wherever ground water is encountered within four (4) feet of the proposed roadway surface or wherever the soil type indicates the possibility of a capillary rise of water in the sub-grade soil, sub-drains shall be installed under both shoulders of the roadway. Rural Class B Streets require only one drain. The design and depth of the sub-drains shall be in accordance with the specifications of the Highway Superintendent notwithstanding the requirements of this paragraph for common driveway construction only one subdrain shall be required.
- E. Rock excavations. Wherever rock is encountered, it shall be excavated to a depth of two (2) feet below the sub-base of the roadway for the full width of the street. The excavated rock shall be replaced with a granular material satisfactory to the Highway Superintendent.
- F. Sub-base. Roadways shall be brought to the bottom of the sub-base elevation prior to the installation of the water mains, storm drains, sanitary sewers or other utilities.
- G. Sub-base compaction. The gravel base and sub-base of the roadway shall be compacted to not less than ninety-five percent (95%) of maximum dry density.
- H. Curbs.
  - (1) Curbing, where required, should be standard granite, precast concrete, or bituminous concrete as determined by the Planning Board with recommendations by the Highway Superintendent. All catch basins should have granite drop inlets.
  - (2) Where bituminous concrete curbs are allowed, the curb type shall be approved by the Highway Superintendent before installation. Bituminous concrete curbs, with a width of twelve (12) inches and minimum pitch of three (3) inches to five (5) inches, may be allowed where grades are less than three percent (3%).

#### **4-2. Roadway material requirements.**

- A. The structure of the roadway will be composed of the following items:
  - (1) Bituminous concrete pavement. The material used for roadway pavement shall be Class I Bituminous Concrete Type I-1 applied in two (2) courses. All work shall conform to the requirements of Section 460 of the Mass Highway Standard Specifications for both the binder and top courses. All materials shall conform to Section M3 of said Standard Specifications.

- (2) Base. The material used for a base course shall be a processed gravel that meets with the approval of the Highway Superintendent. The gravel shall conform to the requirements of Section M1.03.1 of the Mass Highway Standard Specifications.
- (3) Sub-base. The material used for a sub-base shall be a bank run or crushed gravel that meets with the approval of the Highway Superintendent and shall conform to the requirements of Section M1.03.0 of the Mass Highway Standard Specifications.
- (4) Sub-grade (sand borrow). When sand borrow is required below the sub-base, the material used shall conform to Section M1.04.0 Type B of the Mass Highway Standard Specifications and shall be compacted to ninety-five percent (95%) of maximum dry density.

B. Subsurface soil data.

- (1) Soil information. The Board may require subsurface soil information to evaluate the adequacy of the roadway design. Such information may include test pits, borings, or probings along each proposed street, primarily at locations such as cut sections, areas of questionable foundation material, and areas of potentially high groundwater elevations. The requirement for and location of test pits shall be established by the Board during the preliminary plan review process. If a preliminary plan did not precede the definitive plan submittal, test pit data will be required at locations every eight hundred (800) feet along roadway center lines, plus areas where the proposed grade is three (3) feet or more below existing grade and probings will be required along the center line and sideline at twenty-five-foot intervals where the roadway crosses wetlands or other areas of unsuitable material.
- (2) Soil test pit specifications. Borings and test pits shall be to a depth at least four (4) feet below finished grade and the logs submitted to the Board shall indicate their location and ground elevation, a classification of the soil strata by depth, depth at which groundwater or rock, if any, is encountered and the date of the test.
- (3) Probings. Probings shall be used to determine the depth of unsuitable material and the data shall be submitted to the Board on a scale of one (1) inch equals twenty (20) feet drawing showing the roadway center line (with stations) and sidelines, and test locations with existing ground elevations and the depths of unsuitable materials.
- (4) Planning Board present. All subsurface soil investigations shall be made in the presence of a representative of the Planning Board or its designated agent.
- (5) Registered engineer. All soil logs to be submitted to the Board shall be stamped by a registered professional engineer.

C. Street cross-section/drainage/grade and slope stabilization requirements.

- (1) Drawn to scale. Typical street cross-section for each class of street within the subdivision, drawn at one (1) inch equals four (4) feet, showing location of all elements within the street right-of-way, and typical cross-sections of any altered drainage courses or off-street paths shall be drawn.
- (2) Easements, drainage calculations, evidence of ownership, language of any easements,



covenants, or restrictions applying or proposed to apply to the area being subdivided, rights and easements obtained for utilities or drainage outside of the subdivision, description of erosion control methods to be employed shall be presented.

- (3) Drain pipes, manholes, catch basins. Drain pipes and related manholes and catch basins shall be constructed in conformity with the specifications and requirements of the Highway Superintendent.

**4-3. Roadway design standards.**

- A. In general, the roadway structure designs for all streets shall be in accordance with the following, unless otherwise required by the Highway Superintendent or the Planning Board.
- B. The sub-grade shall be classified as follows:
  - (1) Poor: Sub-grade soils which become quite soft and plastic when wet. Included in this classification are those soils having appreciable amounts of clay, silt, and fine sand where front penetration of the sub-grade is expected.
  - (2) Medium: Sub-grade soils which retain a moderate degree of firmness when saturated. Included are such soils as fine sand, silty sand and sandy gravel with some silts and clays.
  - (3) Good to Excellent: Sub-grade soils which retain a substantial amount of their load supporting capacity when saturated shall be classified as good. Included are clean sand and gravel free from detrimental amounts of plastic silts and clay.

**REQUIRED ROADWAY STRUCTURE**

Type of Roadway	Pavement Section	Depth of Section for Sub-grade Type (inches)		
		Poor	Medium	Good
Street	Bituminous Concrete Top Course	1.5	1.5	1.5
	Bituminous Concrete Binder Course	2	2	2
	Processed Gravel Base Course	6	6	6
	Gravel Borrow Sub-base	18	12	6

#### **4-4. Gutters.**

Paved gutters shall be installed at the discretion of the Highway Superintendent, as deemed necessary due to special conditions of topography, drainage or alignment.

#### **4-5. Sidewalks**

Sidewalks may be required for proposed streets if deemed necessary by the Planning Board. Sidewalk construction within a roadway layout shall conform to Article III - Design Requirements - of these regulations.

#### **4-6. Utilities.**

All gas, telephone, electricity and cable antenna television lines shall be installed underground unless otherwise approved by the Planning Board.

#### **4-7. Street Lights.**

Installation of street lights shall be at the discretion of the Planning Board.

#### **4-8. Sewers.**

Sanitary sewer pipes and related equipment, such as manholes and connecting Ys, shall be constructed in conformity with specifications issued by the Town of Gill Sewer Commissioners. Where, in the opinion of the Sewer Commission, existing public sewer mains are not reasonably accessible, the plan may be approved without provision of street sewers provided:

- A. That no lot shall be built upon without the provision of on-lot sewerage disposal facilities specifically approved by the Board of Health in accordance with Title V of the Massachusetts Sanitary Code; and
- B. That the Sewer Commission may require installation of so-called "dry-sewers" in conformity with specifications of the sewer use regulations and the Sewer Commission in any street where, in its estimation, sanitary sewers may become accessible within a period of ten (10) years.

#### **4-9. Water.**

Water pipes and related equipment, such as hydrants and main shutoff valves, shall be constructed to serve all lots on each street in the subdivision in conformity with specifications and requirements issued by the Riverside Water District. Where, in the opinion of the Riverside Water District, existing water mains are not reasonably accessible, the plan may be approved without provision of street water lines provided:

- A. That no lot shall be built upon without the provisions of on-lot water facilities specifically approved by the Board of Health; and
- B. That the Planning Board may require provisions of water for fire-fighting as are deemed necessary by the Chief of the Fire Department in addition to the requirement that subdivisions must have a 10,000 gallon underground water tank.

#### **4-10. Storm Water and Drainage.**

- A. Stormwater and Drainage systems shall be constructed in conformity with the stormwater specifications issued by the Department of Environmental Protection and require the submittal of a stormwater management plan.
- B. Proposed stormwater detention basins shall be located on separate lot(s) and not be included as part of a building lot.
- C. All detention basins, drainage swales, level spreaders, and drainage outflows shall be constructed and stabilized with vegetation or erosion control matting prior to the construction of approved roads. Inspections during and after construction by the Highway Superintendent shall take place to ensure conformance to Town regulations and specifications.

#### **4-11. Stone bounds; monuments.**

Permanent monuments of granite shall be installed at all street intersections, at all points of change in direction or curvature of streets, and at all other points required by good engineering practice, after completion of all construction. Certification in writing shall be made by the registered engineer of the subdivider, to the Highway Superintendent, that all monuments have been properly set in accordance with the final plan.

#### **4-12. Grass plots and trees.**

- A. The entire width of the right-of-way, except for roadway, curb and gutter, and sidewalk, shall be devoted to grass plot, consisting of at least six (6) inches of good quality loam and seeded.
- B. No utility poles, transformers, sign or similar items shall be placed within the grass plot so as to be less than two (2) feet from the edge of the roadway.
- C. Where, in the opinion of the Planning Board, existing or proposed trees on the adjacent lot are not adequate, one (1) or more trees per lot may be required. No trees shall be planted in the grass plot between the sidewalk area and gutter. Species, size, location, and planting procedure for such trees shall conform to the recommendations of the Planning Board.

#### **4-13. Construction Entrances**

A temporary mud tracking bed (construction entrance) shall be put in place at each site entrance and shall consist of a four (4) inch minimum layer of 2 ½"-4" crushed stone and shall be thirty (30) feet in length and fifteen (15) feet wide. This bed shall be maintained during construction to prevent tracking or flowing of sediment onto the public right-of-way and shall be removed prior to the placement of gravel base and pavement.

#### **4-14. Inspections**

Inspections during and after construction by the Highway Superintendent shall take place to ensure conformance to Town regulations and specifications. A letter from the Highway Superintendent stating that he has performed the appropriate inspections must accompany Form O.

ARTICLE V  
**Performance Guarantee**

**5-1. Guarantee required; relationship to cost.**

- A. MGL c. 41, ~ 81U, requires that no definitive plan shall be endorsed by the Planning Board until the applicant has guaranteed the construction of all required improvements within the subdivision as shown on the definitive plan. This guarantee may be provided by a proper bond, by a deposit of money or negotiable security, by a covenant, by a lender's agreement, or by any combination thereof.
- B. The penal sum of any such bond held or any deposit held or any amount of funds retained pursuant to an agreement shall bear a direct and reasonable relationship to the expected cost, including the effects of inflation, necessary to complete the subject work. Such amount or amounts shall, from time to time, be reduced so that the amount bonded, deposited or retained continues to reflect the actual expected cost of work remaining to be completed.
- C. The subdivider is to provide the Town with a satisfactory performance guarantee within sixty (60) days after the twenty-day appeals period has expired, and upon acceptance of guarantee, the plan will be endorsed within sixty (60) days by the Planning Board.

**5-2. Final approval with bonds.**

- A. The subdivider shall file a proper bond, sufficient in the opinion of the Planning Board, to secure performance of the construction of ways and the installation of municipal services as specified in Article IV, and as are required for lots in the subdivision shown on the plan, and the Planning Board may require that the subdivider specify the time within which such construction shall be completed.
- B. Such bond shall be approved as to form and manner of execution by the Town Attorney; shall be contingent on completion of the construction of ways and the installation of municipal services within a period to be agreed to and specified by the Planning Board and applicant and shall be deposited with the Town Treasurer.

**5-3. Final approval with deposit of money or negotiable securities.**

- A. The subdivider shall file a deposit of money or negotiable securities, sufficient, in the opinion of the Planning Board to secure performance of the construction of ways and installation of municipal services, as specified in Article IV, and as are required for lots in the subdivision shown on the plan, and the Planning Board may require that the applicant specify the time within which such construction shall be completed.
- B. Such deposit of money or negotiable securities shall be approved as to form and manner of execution by the Town Treasurer, shall be contingent on completion of the construction of ways and the installation of municipal services within a period to be agreed upon by the

Planning Board, and shall be deposited with the Town Treasurer.

**5-4. Final approval with covenant.**

- A. The subdivider shall file a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided as specified in Article IV, to serve any lot before such lot may be built upon or conveyed, other than by mortgaged deed, provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the covenant which provides that no lot shall be built upon until such ways and services have been provided to service such lot, and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on subdivision plan or of all lots not previously released by the Planning Board. A deed of any part of the subdivision in violation hereof shall be voidable by the grantee prior to the release of the covenant but not later than three (3) years from the date of such deed.
- B. Such covenant shall be approved as to form and manner of execution by the Town Attorney and shall be contingent on completion of the construction of ways and the installation of municipal services within a period to be agreed upon by the Planning Board and the applicant.

**5-5. Final approval with lender's agreement.**

- A. The subdivider shall file with the Planning 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 Planning Board and otherwise due the applicant, to secure the construction of ways and installation of municipal services, as specified in Article IV.
- B. 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 unspent shall be available for completion. Such agreement shall be approved as to form and manner of execution by the Town Attorney and shall be contingent on completion of the construction of ways and the installation of municipal services in accordance with the schedule of disbursements which shall be approved by the Planning Board prior to execution of the agreement.

**5-6. Release of performance guarantee.**

- A. Upon the completion of the construction of ways and the installation of municipal services in accordance with the rules and regulation of the Planning Board, 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 applicant shall submit a completed Form O stating that the said construction or installation in connection with which such bond, deposit, or covenant has been completed in accordance with said rules and regulations. Along with the Form O, the applicant shall also submit two (2) copies of as-built plans in an electronic format acceptable to the Highway Superintendent and one (1) Mylar. The applicant shall also send by registered

mail to the Town Clerk and the Planning Board a written statement that the said construction or installation in connection with which such bond, deposit, or covenant has been given has been completed in accordance with said rules and regulations, such statement to contain the address of the applicant. If the Planning Board determined that said construction or installation has been completed, it shall release the interest of the Town in such bond and return the bond or the deposit to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged, which may be recorded.

- B. If the Board determines that said construction or installation has not been completed, it shall specify, in a notice sent by registered mail to the subdivider and to the Town Clerk, the details wherein said construction or installation fails to comply with its rules and regulations. Upon failure to respond within forty-five (45) days after the receipt by the Town Clerk of Form O, 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 specifications, or without the release and return of the bond or return of the deposit or release of the covenant such aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

## ARTICLE VI **Administration**

### **6-1. Variation.**

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. In waving strict compliance the Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived.

### **6-2. Appeals.**

Appeals may be taken to the Superior Court in accordance with MGL c. 41, ~ 81BB.

### **6-3. Administrative fees**

#### **A. See Fee Schedule for specific fees**

#### **B. Consulting costs.**

- (1) The services of an outside consultant may be obtained by the Planning Board to review and advise the Board on the subdivider's proposed project. All reasonable expenses incurred by the Board for such review shall be paid by the subdivider. The Planning Board shall notify the subdivider in writing of the estimated costs for the review. The review fees shall be paid by the subdivider within ten (10) days of receipt of the notification. The review fees shall be held by the Town Treasurer in a separate account. The Board may request additional funds if needed to cover the cost of outside review in the same manner as above. Failure by the subdivider to make timely payments shall be

adequate reason to deny the application.

- (2) The selection of an outside consultant may be appealed to the Board of Selectmen. Such appeals are limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications consist of either an educational degree in the field at issue or a related field, or three (3) or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one (1) month following the filing of the appeal, the selection made by the Planning Board shall stand.

- F. Any excess amount in review fees paid by the subdivider, including any accrued interest, at the completion of the project shall be repaid to the subdivider or to the subdivider's successor in interest, and a final report on expenditures made from the fees shall be made available.

#### **6-4. Submission of road to Town to consider acceptance as public way.**

Once the road(s) and associated public utilities are completed and the subdivider desires to submit it for consideration for acceptance as a public way by the Town, the following procedure shall be followed:

- A. The subdivider of a subdivision road shall submit a completed Certificate of Completion (Form O of Subdivision Regulations) to the Planning Board for approval and release of the performance guarantee.
- B. The subdivider or petitioner shall file a written petition to the Selectboard requesting that the road be laid out and accepted as a public way. The petition shall include:
  - (1) A legal description of the public way, easements, and any other documentation to be considered.
  - (2) A list of names and addresses of abutters, utility companies, banks holding mortgages, and the subdivider/owner.
  - (3) A Mylar plan of the roadway layout and three (3) paper copies.
- C. The plan shall be prepared to the following specifications:
  - (1) Scale 1 inch = 40 feet.
  - (2) Must be prepared in accordance with Franklin County Registry of Deeds Plan Regulations.
    - (a) no larger than 24" x 36"
    - (b) 3/4" boundary
    - (c) 3 1/2 square inch space reserved for registry use

- (3) Only one proposed street to be shown per sheet.
- (4) Match lines to be used if a street is to be shown on more than one sheet.
- (5) Title block to be:

Street Acceptance Plan of  
 (name of street)  
 Town of Gill, Franklin County, Massachusetts

- (6) Date plan was prepared.
- (7) Plan shall be stamped by a registered land surveyor.
- (8) Reserved spaces for:

(a) (name of street) is part of the (name) subdivision approved by the Planning Board on (date) and recorded in the Franklin County Registry of Deeds book \_\_\_\_\_ page \_\_\_\_\_.

(or)

(\_\_\_\_name of street \_\_\_\_ ) is a way in existence which has been recommended by the Planning Board on (\_\_\_\_date\_\_\_\_) for acceptance as a public way.

- (b) Planning Board Endorsement that Approval is Not Required.
  - (c) Laid out by Town Meeting (date and Town Clerk signature).
  - (d) Filed in Town Clerk's office (date and attest by Town Clerk).
- (D) One copy of the petition and all required information shall be submitted to the Planning Board and 1 copy to the Highway Superintendent at the time of submittal to the Selectboard.
  - (E) The Selectboard votes their intention to consider laying out the road as a public way. The vote becomes a public record and the Selectboard refers the petition to the Planning Board for a non-binding recommendation and report.
  - (F) The Planning Board shall have forty-five (45) days after it receives the referral to make a report and recommendation to the Selectboard. Failure by the Planning Board to make a recommendation will be construed as no opposition to acceptance of the road as a public way. The petition shall also be referred to the Highway Superintendent for recommendation.
  - (G) After receipt of the Planning Board's recommendation or after 45 days has lapsed with no recommendation, the Selectboard shall hold a public hearing. Notice of such hearing and any viewings shall be published in a local newspaper and shall be sent by certified mail to



all abutters, utility companies, banks holding mortgages, and the subdivider at least seven (7) days prior to the date of the hearing. A copy of the notice shall also be sent to the Planning Board, Highway Superintendent, and Town Clerk. The notice shall include a description of the layout; the date, time and place of the hearing; and the location where the plans may be reviewed.

- (H) After close of the public hearing, the Selectboard may vote to accept the layout of the road as a public way. A majority vote of the Selectboard is required for acceptance.
- (I) The Town Clerk shall record the report in a book kept for that purpose within ten (10) days of receipt.
- (J) If approved, the Selectboard shall acquire the necessary land for the road layout by accepting a deed from the owner(s) of the fee simple in the way or by a taking of the land by eminent domain in fee simple in the way. The taking or acceptance of a deed must be approved by a 2/3rds vote of the Town Meeting.
- (K) The plan and legal description shall be recorded in the Franklin County Registry of Deeds by the Selectboard once all other proceedings have been finalized.

**Other Conditions:**

- (A) The subdivider or petitioner shall be responsible for the cost of preparing all plans, public hearing notice (mailings and legal advertisement), and recording of documents/plans at the Registry of Deeds.
- (B) The Planning Board and Highway Superintendent will not recommend acceptance unless the land and the road are transferred to the Town at no cost to the Town.

**6-5. Severability.**

The invalidity of any section, clause, sentence or provision of these regulations shall not affect the validity of any other part of these regulations which can be given effect without such invalid part or parts.

**6-6. When effective.**

These regulations and the Subdivision Control Law shall become effective in Gill when, following their adoption by the Planning Board, certified copies of these regulations have been transmitted to the Registry of Deeds and to the Recorder of the Land Court.

**6-7. Administrative forms.**

Attached, as part of these regulations, are certain administrative forms, applications, and other documents associated with subdivisions. These forms may be changed from time to time by majority vote of the Board without notice to reflect changes in procedures or laws.