

**CHAPTER 40A  
OF THE  
MASSACHUSETTS GENERAL LAWS**

**THE ZONING ACT**

**Ch 40 A Sect 9 Rules of Board of Appeals**

**Local Board of Appeals' Rules and Regulations.**

G.L. c. 40A §9, with respect to special permits, states that the "special permit granting authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the city or town clerk. . . .

" Section 12 of the statute, with respect to variances, says, "The board of appeals shall adopt rules not inconsistent with the provisions of the zoning . . by-law for the conduct of its business and for purposes of this chapter and shall file a copy of said rules with the . . town clerk."

(a) that the failure to adopt or to file such rules has been held by the Courts not to render a variance or special permit decision void, and

(b) that there are no reported decisions as to the permissible scope of internal operating rules..

There are no comparable provisions in G. L. c. 40A §8 or §15, or elsewhere in the statute, specifically requiring or authorizing a local board of appeals to adopt rules and regulations as to administrative appeals. Nonetheless, such a board, as an administrative agency charged with effectuating the purposes of the Zoning Act, G.L. c. 40A, has the requisite authority to adopt procedural rules, and so long as they are reasonably related to the purposes of the enabling legislation they will be sustained. See, Southview Co-operative Housing Corp. v. Rent Control Board of Cambridge, 396 Mass. 395, 399 (1985) and cases cited. Such rules may include fees since an express statutory grant of authority to regulate includes the authorization to require fees to cover reasonable expenses incident to the enforcement of the statute, bylaw and rules, including those involved in conducting hearings and performing other services. Id. at 400. Section 7.3.6 of the Charlton Zoning By-Law states that, "The Zoning Board of Appeal shall adopt rules consistent with Chapters 40A and 808 [sic] of the Massachusetts General Laws and provisions of this Bylaw for the conduct of its business.