

Retreat Lot Application Instructions:

Carefully read Section IV.N. - Retreat Lot Bylaw (Attached)

1. Fill out one (1) copy of retreat lot application
2. Attach copy of Certified Abutters List for abutters within 300 feet of the effected property line. (Form for Assessor's Office attached)
3. Supply seven(7) copies of Form A plan showing proposed retreat lot drafted by Register Professional Land Surveyor
4. Submit one (1) draft copy of proposed retreat lot covenant (sample attached)
5. Submit Fees as follows:

Application Fee	\$50
Hearing Fee	TBD (payable to Millbury-Sutton Chronicle)
Certified Mail Fee	Current Cert. Mail Fee x # abutters

The Application and Mailing fees can be submitted in one check made payable to The Town of Sutton

All materials should be submitted to the Planning Office so they can be reviewed by the Planning Director. The application and supporting materials will be formally accepted by the Planning Board in an open meeting and the hearing date on the application will be scheduled as soon as possible thereafter.

The petitioner should appear at the time and date of the hearing to address any questions by the Board or parties in interest.

The Planning Board will endorse the Form A plan as soon as the covenant related to said plan is endorsed. The plan, Special Permit and the related covenant must be recorded at the Worcester District Registry of Deeds and the petitioner must return three (3) copies of the recorded plan, Special Permit and covenant to the Planning Office before the Planning Board will endorse the related building permit.

N. Retreat Lots

For the purposes of creating reasonable and safe residential use of backland, there may be established so-called retreat lots. A Form A plan creating a buildable retreat lot may be endorsed by the Planning Board after the issuance of a special permit by the Planning Board in accordance with this Section.

1. Procedure

The applicant shall file seven (7) copies of the proposed Form A land division plan as well as all other materials required for an application for Special Permit.

At a minimum the Form A shall show:

- a. Property owner
- b. Name of Registered Professional Land Surveyor and stamp
- c. Zoning district
- d. Lot area
- e. Lot dimensions
- f. Regularity factor or buildable area notation
- g. Locus
- h. Notation: "The retreat lot depicted on this Form A shall never be further divided."

The plan shall also comply with the standards for Form A plans detailed in the Sutton Subdivision Rules and Regulations and M.G.L. Chapter 41, §81K-GG.

2. Requirements

A Special Permit may not be granted unless the following conditions have been met:

- a. Said lot shall be entirely within a residential zoning district.
- b. Said lot shall have a minimum street frontage of fifty (50) feet and a width of not less than fifty (50) feet at all points.
- c. The area of said lot shall be at least three (3) times the minimum required lot area in the applicable residential zoning district.
- d. Said lot shall be at least two hundred fifty (250) feet from any other lot granted a special permit pursuant to this section, measured at the road frontage.
- e. Said lot shall not be further divided. The Form A plan submitted to the Planning Board for endorsement after grant of the special permit pursuant to this section, shall contain a notation as in section IV.N.1.h above. Prior to granting of the special permit, the proponent shall provide a covenant, in a form acceptable to the Planning Board, prohibiting further division of said retreat lot in perpetuity.
- f. Access from the frontage of said lot to the principal structure on said lot shall be within the boundary lines of said lot and shall not be via a right-of-way or any public or private easement over an adjacent lot.
- g. Frontage of said lot shall be situated entirely on a public way.
- h. Said lots shall either (1) meet the regularity factor established in Section III.B.2 of this Bylaw , or (2) contain a contiguous buildable area of at least 200' X 200'.

- i. Said lot shall comply with the Sutton Zoning Bylaw and Subdivision Rules and Regulations in all other respects
- j. In all cases, the special permit shall contain a condition requiring that the access from the frontage of said lot to the principal structure (driveway) shall be of bituminous surface, no greater than twelve percent (12%) grade with a minimum paved width of twelve (12) feet and minimum cleared width of fifteen (15) feet.
- k. Underground utilities shall be provided on retreat lots, unless the Planning Board makes findings in open meeting that underground utilities are not practical due to extreme topographical or environmental constraints and/or safety issues. Above ground utilities shall not be allowed solely for the convenience and/or preference of a petitioner.
- l. The house number of the retreat lot shall be clearly visible at the street.

3. Recording

After the grant of the special permit by the Planning Board and endorsement of the Form A plan by the Planning Board, the proponent shall provide said board with recorded copies of both the Form A plan and covenant. The recorded plan and covenant must be received prior to the building permit being issued.

**TOWN OF SUTTON, MASSACHUSETTS
PLANNING BOARD**

APPLICATION FOR RETREAT LOT

Sutton Zoning Bylaws, Section IV.N.

This application and all supporting materials under the Retreat Lot Bylaw and attached "instructions", must be accepted at a regularly scheduled meeting of the Planning Board.

Date: _____

Applicant's Name: _____ Phone: _____

Applicant's Address: _____

Owners Name: _____ Phone: _____

Owner's Address: _____

Architect/Engineer/Surveyor: _____ Phone: _____

Address: _____

Deed of property Recorded in Worcester District Registry of Deeds:

Book _____ Page _____ Assessors Map # _____ Parcel # _____

Location of proposed project: _____

Other Comments:



Filed with the Planning Board: _____

Owner's Signature: _____ Applicant's Signature: _____

Town of Sutton
Covenant

KNOW ALL MEN by these presents that the undersigned has submitted an application dated _____ to the Planning Board for approval of a retreat lot per the Form A plan, dated _____ by _____ and showing ____ proposed retreat lot off _____. The undersigned has requested the Planning Board approve said plan in compliance with a Special Permit issued by the Planning Board dated _____ and recorded herewith.

I, _____, in consideration of \$1.00 and the Sutton Planning Board granting the approvals described below, the receipt and sufficiency of which is acknowledged, grants with, quitclaim covenants, to the Town of Sutton, a municipal corporation acting by and through its Planning Board, (“Grantee”) with an office and place of business at 4 Uxbridge Road, Sutton, Massachusetts, a covenant granted in gross with respect to the land located in the Town of Sutton described in a deed recorded with the Worcester District Registry of Deeds in Book _____, Page _____. (“the Property”)

IN CONSIDERATION of the Sutton Planning Board approving said plan, the Grantor hereby agrees and covenants for himself, his successors and assigns, that the property shall be subject to the following covenants, agreements and restrictions which are hereby imposed for the benefit of the Town of Sutton and shall be administered and enforced by its duly elected Board of Selectmen and/or its duly appointed/elected Planning Board

1. That the undersigned is the owner in fee simple absolute of all the land included in this Form A 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.
2. 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 this Form A and shall operate as restrictions upon the land.
3. That the undersigned agrees to record this covenant with the Worcester District Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the Form A plan as approved.
4. That this covenant shall be executed before endorsement of approval of the Form A plan by the Planning Board and shall take effect upon the endorsement of approval.
5. That the undersigned agrees that the lots shown on said plan, Lot __, ____ acres and ____ feet of frontage, shall in perpetuity, never be further divided.

TERM OF COVENANT – The covenants contained herein shall be enforceable in perpetuity against the Grantor, the Grantor’s successors in title to the Property and any person holding any interest therein, by the Town of Sutton, acting by and through its Planning Board, its successors and assigns and its duly designated members, employees, representatives or agents. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this restrictive covenant and the Grantor on behalf of themselves and their successors and assigns appoint the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf. Without limiting the foregoing, the Grantor and their successors and assigns agree themselves to execute and such instruments upon request.

The covenants contained herein shall be contained in or referenced in any deed of conveyance of the Property or any other instruments conveying any interest in all or any portion of the property.

ENFORCEMENT – The rights hereby granted include the right to enforce the covenants contained herein by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violation, including, without limitation, relief requiring restoration of the Property to its condition prior to the time of injury complained of (it being agreed that the Grantee has no adequate legal remedy at law), and shall be in addition to, and not in limitation of any other rights and remedies available to the Grantee.

Any forbearance with respect to any violation of the covenants contained herein, or failure to enforce said covenants, for however long such forbearance or failure to enforce may continue, shall not preclude enforcement at a later time with respect to the same violation or a subsequent violation. Any election by the Grantee as to the manner and timing of its right to enforce these restrictive covenants or otherwise exercise its rights hereunder shall not be held invalid, the remainder shall not be affected.

The Grantor and his successors and assigns shall forego any action at law or equity attempting to contest the validity of any provision of the restrictive covenants contained herein and shall not, in any enforcement action, raise the invalidity of any provision of said covenants as a defense. If any provision of said covenants shall nevertheless to any extent be held invalid, the remainder shall not be affected.

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

The present holder of a mortgage upon the property is _____
_____. The mortgage is dated _____ and is recorded in Worcester
District Registry of Deeds Book _____ Page _____.

The mortgagee agrees to hold the mortgage subject to the covenants set forth above and agrees that the covenants shall have the same status, force and effect as though executed and recorded before the taking of the mortgage and further agrees that the mortgage shall be subordinate to the above covenants.

_____, spouse of the undersigned applicant hereby agrees that such interest as I, we, may have in the premises shall be subject to the provisions of this covenant and insofar as is necessary releases all rights of tenancy by the dower or homestead and other interests herein.

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

Owner

Spouse of Owner

Mortgagee

Acceptance by the Town of Sutton:

By its Planning Board

Commonwealth of Massachusetts, County of Worcester:

On this the _____ day of _____, 2005 Before me, the undersigned Notary Public, personally appeared _____, who proved to me through satisfactory evidence of identity, which was/were: _____ to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

Notary Public
My Commission Expires:

Commonwealth of Massachusetts, County of Worcester:

On this the _____ day of _____, 2005 Before me, the undersigned Notary Public, personally appeared _____, who proved to me through satisfactory evidence of identity, which was/were: _____ to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

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