

## **SECTION 13 LAND USE REVIEW PROCEDURES**

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### **13.1 GENERAL**

No application shall be filed for a building permit for the construction, exterior alteration, relocation, or change in any use requiring either site plan approval or a special permit as set forth in section 3.4 or any other applicable section of this By-Law until the provisions of this section have been fulfilled and a site plan approved by the appropriate authority as set forth herein.

### **13.2 PRE-APPLICATION REVIEW**

Prior to the formal filing of an application for site plan approval or a special permit, applicants are strongly encouraged to schedule a conference with the Planning Board or its representative to informally discuss the application and jointly cooperate in developing a site plan that will conform with the requirements of this Zoning By-Law and the established planning goals of the Town.

### **13.3 SITE PLAN REQUIREMENTS**

Unless waived because of the scale or character of the development, site plans shall be prepared by a registered professional engineer, architect, landscape architect and/or land surveyor, and shall show, as a minimum:

- 13.3.1** The name and address of the project, date, north arrow, and graphic scale;
- 13.3.2** The name and address of the owner of record, developer, and seal of the engineer, architect, landscape architect and/or land surveyor;
- 13.3.3** The location and boundaries of the lot, easements, adjacent streets, ways, or other matters of record,
- 13.3.4** The location and names of owners of all adjacent properties within three hundred (300) feet of the property line;
- 13.3.5** Existing and proposed topography at two foot contour interval including the location of wetlands, streams, water bodies, drainage swales, areas subject to flooding, and unique natural land features;
- 13.3.6** Existing and proposed buildings or structures, including dimensions, elevations, all exterior entrances/exits, and the approximate locations of existing buildings located on adjoining property within fifty (50) feet of the development site;

- 13.3.7 The location of parking and loading areas, driveways, walkways, access and egress points;
- 13.3.8 The location and description of all existing and proposed utilities, sewage disposal systems including percolation tests where necessary, water supply systems, surface water drainage systems, refuse and other waste disposal methods;
- 13.3.9 The location, dimensions, height and characteristics of proposed signs;
- 13.3.10 The location type and intensity of proposed and existing lighting;
- 13.3.11 Proposed landscaping features including the location and description of buffers, screening, fencing and plantings, including the size and type of plant materials;
- 13.3.12 Location and type of monumentation at property corners;
- 13.3.13 Zoning district boundaries, lot area, frontage, setbacks, and other zoning requirements;

#### **13.4 SITE PLAN DESIGN GUIDELINES/REVIEW CRITERIA**

The following guidelines and criteria shall be considered in the review and evaluation of the site plan, consistent with a reasonable use of the site for the purposes permitted by the regulations of the district in which the site is located:

##### **13.4.1 Preservation of the Landscape**

**13.4.1.1** The landscape shall be preserved in its natural state insofar as practicable by minimizing tree, soil, and vegetation removal; minimizing the use of wetlands, steep slopes, hilltops and floodplains;

**13.4.1.2** Special care shall be taken to preserve unique or important natural, historic or scenic features.

##### **13.4.2 Relation of Buildings to Environment**

Proposed development shall be related harmoniously to the terrain and to the use, scale, and proportions of existing and proposed buildings in the vicinity that have functional or visual relationship to the proposed buildings.

##### **13.4.3 Interrelationship of Buildings**

If more than one building is proposed, the buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy, and separation between buildings.

##### **13.4.4 Vehicular and Pedestrian Circulation**

**13.4.4.1** The site shall be designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties.

- 13.4.4.2** The location and number of cuts shall be such to minimize turning movements and hazardous exits and entrances.
- 13.4.4.3** The location and design of parking spaces, drive aisles, loading areas and sidewalks shall be provided in a safe and convenient manner.
- 13.4.4.4** Provision for access to adjoining properties shall be provided as appropriate.
- 13.4.4.5** Where possible and practicable, driveways located in commercial and business districts shall be located opposite each other.
- 13.4.4.6** Joint access driveways between adjoining driveways shall be encouraged subject to Planning Board approval.

**13.4.5 Surface Water Drainage**

- 13.4.5.1** The proposed drainage system within and adjacent to the site shall be adequate to handle the increased runoff resulting from the development.
- 13.4.5.2** Special attention shall be given to proper discharge of surface water drainage so that removal of surface waters will not adversely affect neighboring properties, streams, wetlands or the public storm drainage system.
- 13.4.5.3** Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

**13.4.6 Utility Service**

- 13.4.6.1** The proposed water supply system and methods of sanitary sewage disposal and solid waste disposal to and from all buildings shall be indicated and adequate to serve the proposed use.
- 13.4.6.2** The development shall not place excessive demands on Town services or infrastructure.
- 13.4.6.3** Electric, telephone, cable television and other such lines and equipment shall be underground where practical and environmentally feasible.

**13.4.7 Signs**

The size, location, design, color, texture, lighting and materials of all signs shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.

### **13.4.8 Screening and Landscaping.**

**13.4.8.1** Landscaped buffer strips shall be provided where required by this By-Law and shall conform to the requirements of Section 10.2 to shield the business and light industrial uses of land from any adjoining residential property.

**13.4.8.2** Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

**13.4.8.3** The intrusion of lighting, including parking lot and building exterior lighting, onto adjacent properties shall be minimized, through the use of light shields, lowered height of light poles, screening or similar solutions.

### **13.4.9 Compliance with the By-Law.**

The Site Plan shall comply with all zoning requirements established for signage, parking, loading, dimensions (lot size, yard, frontage, height, building coverage, etc.), commercial and industrial performance standards, and all other provisions of this By-Law.

## **13.5 SITE PLAN APPROVAL**

Site plan approval is hereby enacted to further accomplish the purposes set forth in Section 1.1 of this By-Law by providing for a review of plans for uses and structures, which although permitted by right, may still have significant impacts on pedestrian and vehicular traffic, public services and utilities, and environmental quality. The purpose of site plan approval is to ensure that the design and layout of new development complies with the purpose and intent of this By-Law and does not result in a detriment to the neighborhood, community or environment.

### **13.5.1 Applicability**

No building permit application shall be filed or granted for the construction, exterior alteration, relocation, or change in any use requiring site plan approval from the Planning Board as set forth in Section 3.4, until the provisions of this section have been fulfilled and an application for site plan approval approved by the Planning Board.

**13.5.1.1** The Planning Board shall adopt, and may periodically amend by majority vote, after a public hearing, Rules and Regulations relating to the procedures and administration of site plan approval not inconsistent

with the provisions of this By-Law or Chapter 40A of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

**13.5.1.2** The Planning Board may waive any or all of the requirements for site plan approval it judges to be unnecessary to the review of a particular plan.

**13.5.1.3** No Site Plan Approval shall be required in those instances where a lawful use change is proposed and no physical changes (other than signs) will occur to the site or building exterior and where no new or additional requirements of the Zoning By-Law must be met for the proposed use.

### **13.5.2 Application**

Each application for site plan approval shall be submitted on the proper form to the Planning Board by the current owner of record, accompanied by all fees and any additional information as may be required, including a site plan conforming to the requirements set forth in Section 13.3.

**13.5.2.1** The dimensions, scale, form, contents, and style of plans, fee schedule, and other information required as part of an application for a site plan approval shall be subject to such Rules and Regulations as may from time to time be promulgated by the Planning Board.

**13.5.2.2** Misrepresentation of any of the required site plan items shall be cause to revoke site plan approval.

### **13.5.3 Review Procedure**

**13.5.3.1** The Planning Board shall transmit copies of the application and site plan to appropriate Town Boards, Committees and Departments which may include: the Town Engineer, Building Inspector, Fire Chief, Police Chief, Conservation Commission, Board of Health, Board of Water Commissioners, Sanitary Sewer Commission and others as necessary. These Boards and departments shall have thirty-five (35) days to report in writing their findings and recommendations to the Planning Board. Failure to so report in the allotted time shall constitute approval by that Board or Department of the application submitted.

**13.5.3.2** After giving proper legal notice, the Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of application and after due consideration shall take final action within ninety (90) days from the time of the hearing.

#### **13.5.4 Decision of the Planning Board**

The Planning Board shall render a decision within ninety (90) days of the public hearing and shall file its written decision with the Town Clerk's office and other appropriate parties in accordance with the provisions of M.G.L. Chapter 40A. The concurring vote of a simple majority of the Board shall be required for any decision on a site plan application. The Board's written decision shall consist of either:

**13.5.4.1** Approval of the site plan based on a determination that the proposed project meets the requirements of this section.

**13.5.4.2** Denial of the site plan based on a determination that either:

**A.** Insufficient information was submitted with the application in order for the Board to adequately review the proposal; or

**B.** A determination that the project does not meet the requirements of this section.

**13.5.4.3** Approval of the site plan subject to conditions, modifications and reasonable restrictions necessary to ensure compliance with the requirements of this section. Such conditions may include the following:

**A.** Controls on the location and type of access to the site.

**B.** Requirements to reduce the traffic impact of the proposed development.

**C.** Requirements to minimize impacts on the capacities of infrastructure serving the site, but not limited to water, sewer, storm drains and siteways.

**D.** Requirements to minimize any environmental degradation during construction.

**E.\*** Other conditions designed to ensure compliance with the criteria and guidelines of section 13.4.

#### **13.5.5 Performance Security**

For the purpose of securing the performance of all proposed work, the Board may require performance security in an amount determined by the Board to be sufficient to cover the cost of any part or all of the required improvements.

#### **13.5.6 Expiration**

Any site plan approved under this section shall expire in two (2) years if substantial and continuous construction has not begun by such date.

### **13.5.7 Appeal**

Decisions of the Planning Board regarding site plan approval may be appealed as set forth in M.G.L. Chapter 40A, Section 17.

### **13.5.8 Changes, Alterations, Expansion**

Once approved, Site Plans may be modified with the approval of the Planning Board, which shall hold a hearing with appropriate notice, unless it deems such modification to be of a minor nature.

### **13.5.9 Violations**

Violations of the approved site plan or conditions of approval shall be subject to section 15.3 of this By-Law.

## **13.6 SPECIAL PERMITS**

Special permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon abutters, traffic, utility systems, the character of the Town, and public services. The special permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and ensure that proposals are consistent with the purpose and intent of this By-Law.

### **13.6.1 Applicability**

No building permit application shall be filed or granted for the construction, exterior alteration, relocation, or change in use for any use requiring a special permit as set forth in Section 3.3 or any other applicable section of this By-Law until the provisions of this section have been fulfilled and an application for a special permit approved by the appropriate Special Permit Granting Authority.

### **13.6.2 Special Permit Granting Authorities**

**13.6.2.1** The Special Permit Granting Authority shall be either the Planning Board, the Board of Appeals, or the Board of Selectmen of the Town of Wilbraham as specified herein.

**13.6.2.2** Special permits shall be issued by the Special Permit Granting Authority according to the provisions of Section 9, Chapter 40A of the Massachusetts General Laws.

**13.6.2.3** The Special Permit Granting Authority shall adopt, and may periodically amend, after a public hearing, Rules and Regulations relating to the procedures and administration of special permits not inconsistent with the provisions of this By-Law or Chapter 40A of the General Laws, and shall file a copy of said Rules and Regulations with the Town Clerk.

### **13.6.3 Application**

The applicant for a Special Permit shall submit to the Special Permit Granting Authority an application on the prescribed form accompanied by all required fees and other pertinent data, including a site plan conforming to the requirements set forth in Section 13.3.

**13.6.3.1** The dimensions, scale, form, contents, and style of plans, fee schedule, and other information required as part of an application for a special permit shall be subject to such Rules and Regulations as may from time to time be promulgated by the Special Permit Granting Authority.

**13.6.3.2** Misrepresentation of any of the required site plan items shall be cause to revoke a special permit.

### **13.6.4 Review**

**13.6.4.1** Upon receipt of an application for a special permit, the Special Permit Granting Authority shall transmit copies thereof to the Building Inspector, Planning Administrator, and Planning Board, and may at its discretion, transmit copies to the Town Engineer, Fire Chief, Police Chief, Board of Health, Conservation Commission, Board of Water Commissioners, Sanitary Sewer Commission and such other boards, departments or committees as it may deem necessary and appropriate for their written reports. Any such board or agency to which applications are referred shall respond with written recommendations to the Special Permit Granting Authority as they deem appropriate.

**13.6.4.2** Special permits shall only be issued after a public hearing held by the Special Permit Granting Authority. The public hearing must be held within sixty-five (65) days after the effective date of filing of a special permit application.

**13.6.4.3** Prior to a public hearing on such application held by the Zoning Board of Appeals acting as the Special Permit Granting Authority, the Planning Board shall make a report with recommendations to the Board of Appeals which report shall cover:

- A.** The relationship of the proposal to the Master Plan of Development of the Town;
- B.** The adequacy of the provisions to protect and preserve the character of the neighborhood; and

C. The conformance of the site plan to the general provisions of this By-Law and the specific design standards set forth in section 13.4.

**13.6.4.4** The Special Permit Granting Authority shall take final action on an application within ninety (90) days following the public hearing. Failure to do so shall constitute approval.

**13.6.5 Required Findings**

Where a special permit may be authorized by the Special Permit Granting Authority under this By-Law, said Authority may grant, upon written application, such special permit if it finds, when applicable, that:

**13.6.5.1** The proposed use is in harmony with the general purpose and intent of this By-Law;

**13.6.5.2** The proposed use is suitably located in the neighborhood in which it is proposed and/or the entire Town;

**13.6.5.3** The proposed use is reasonably compatible with the character and scale of other uses permitted in the same district;

**13.6.5.4** The proposed use will not constitute a nuisance due to air and water pollution, excessive noise, dust, vibration, lights, or visually offensive structures and accessories;

**13.6.5.5** The proposed use provides convenient and safe vehicular and pedestrian movement within the site in relation to adjacent streets, property or improvements, and will not create a significant traffic hazard or result in excessive traffic congestion;

**13.6.5.6** Adequate and appropriate facilities will be provided for the proper operation of the proposed use;

**13.6.5.7** The proposal will be in conformance with the sign regulations of Section 12;

**13.6.5.8** The proposal conforms to the off-street parking and loading requirements of Section 11 and provides adequate space for off-street parking and unloading of vehicles;

**13.6.5.9** The design of the project provides for adequate methods of disposal and/or storage of sewage, refuse and other wastes generated by the proposed uses on the site;

**13.6.5.10** The design of the project provides for adequate surface water drainage and the proposed use will not

create a significant adverse impact to the quality of surface water or groundwater during or after construction;

- 13.6.5.11 The proposed use complies with all other additional special permit criteria or zoning requirements imposed on the use by other sections of this By-Law.

### **13.6.6 Granting Of Special Permits**

13.6.6.1 The granting of special permits shall be completely discretionary with the Special Permit Granting Authority.

- A. The Board of Appeals or Board of Selectmen, when acting as the Special Permit Granting Authority, shall, in order to render a favorable decision, have three (3) of the three (3) members voting affirmatively.
- B. The Planning Board, when acting as the Special Permit Granting Authority, shall, in order to render a favorable decision, have four (4) of the five (5) members voting affirmatively.

13.6.6.2 No special permit shall authorize a use expressly prohibited by this Zoning By-Law.

### **13.6.7 Conditions, Safeguards and Limitations**

In granting a special permit, the special permit granting authority may impose conditions, safeguards, and limitations which shall be in writing and may include but are not limited to the following:

- 13.6.7.1\* Front, side and rear yard setbacks greater than the minimum required in this By-Law.
- 13.6.7.2 Limitations of size, number of occupants, method or time of operation or extent of facilities.
- 13.6.7.3 Additional parking, loading or traffic requirements beyond the minimum required in the By-Law.
- 13.6.7.4 Measures to protect against environmental pollution.
- 13.6.7.5 Performance security to ensure that the project meets the conditions specified in the special permit.
- 13.6.7.6 Screening of parking areas or other parts of the premises from adjoining properties or from streets by the use of walls, fences, plantings, earthen berms or other such devices.

### **13.6.8 Expiration**

A special permit issued pursuant to Section 13.6.6 shall lapse if substantial and continuous usage or construction has not commenced within two (2) years. The two (2) year period during which the special permit is valid shall not commence until the final decision has been rendered in the event of any appeal from the issuance of said special permits.

### **13.6.9\* Modification, Amendment or Renewal**

Building permits shall be issued only in strict conformance with the terms and conditions of the special permit approved and endorsed by the Special Permit Granting Authority. No changes to the approved site plan shall be made during construction or operation without prior approval of the Special Permit Granting Authority.

The Special Permit Granting Authority shall have the authority to modify, amend or renew the terms and conditions of special permit approval upon written application of the owner, lessee, or mortgagee of the premises, or upon the Special Permit Granting Authority's own motion; provided, however, that such action is consistent with the purposes and intent of this Bylaw.

Special Permits may be amended with the approval of a supermajority of the Special Permit Granting Authority which shall hold a public hearing with appropriate notice unless it deems such modification to be of a minor nature and therefore does not require an amendment to the special permit.

### **13.6.10\* Enforcement**

Violations of the conditions of special permit approval shall be subject to enforcement action as provided in section 15.3 of this By-Law.