

7.4.26 Validity. If any provision of this By-Law is determined to be invalid, it shall not affect the validity of the remaining provisions.

7.5 LARGE LOT FRONTAGE REDUCTION, SPECIAL PERMIT

7.5.1 Intent. The intent of this large lot frontage reduction is to permit greater flexibility and more creative and imaginative design for the development of residential areas than is generally possible under conventional zoning provisions. It is further intended to promote more economical and efficient use of the land, while preserving the natural environment and scenic qualities of open space which otherwise might be lost.

Commentary: The Planning Board may grant by special permit the right to build on a large parcel that has insufficient frontage by right to build on but is large enough to create a subdivision with a road and multiple lots.

7.5.2 Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority for large lot frontage reduction in the Town of Upton and is authorized to hear and decide upon applications for special permits for large lot frontage reduction in accordance with the provisions of this zoning section.

7.5.3 Application in Zoning Districts. A residential lot with reduced frontage may only be permitted by a special permit in all residential districts where residential use is permitted by right in accordance with the requirements and regulations of the Town of Upton Zoning By-laws.

7.5.4 Application. Applicants are required to submit a special permit application and site plan, conforming to the requirements of this By-Law, to the Planning Board for approval.

- 1) Contents of special permit application: The application for a large lot frontage reduction special permit shall be accompanied by a site plan including all of the information listed below.
 - a. A special permit application.
 - b. A site plan shall conform to the latest ANR (81-P) drawing requirement that the Town of Upton has.

7.5.5 Public Hearing. The Planning Board shall hold a public hearing and shall file its decision with the Town Clerk as required by G.L. c. 40A, s.9

7.5.6 Approval. Upon receipt of the application and required plan, the Planning Board shall transmit one copy each to the Board of Health and Conservation Commission. Within 45 days of their receipt of the application/plan, these agencies shall submit any recommendations to the Planning Board. The Planning Board shall act on applications according to the procedures specified in G.L. c.

40A, s.9. Notice shall be provided of hearings in accordance with G.L. c. 40A, s.11.

Commentary: Compliance with the time frame requirements of Chapter 40A is necessary in order to prevent constructive grants.

Special permits shall be granted by the Planning Board, unless otherwise specified herein, only upon its written determination that the benefit to the town and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site.

Specific Criteria:

- 1) The parcel has a minimum of seventy [70] feet of frontage along a public way;
- 2) The parcel contains a minimum of three times [3x] the land area it would normally require in each district;
- 3) A sixty-five [65] foot diameter circle must be able to pass from the frontage through to the front building line without touching a side lot line;
- 4) The front set back dimensional requirement shall be increased by a factor of three [3x], all other dimensional requirements of the districts in which the parcel is located shall apply;
- 5) The parcel shall be accessed from its frontage only.

In addition to any specific criteria that may be set forth in this By-Law, the determination shall have consideration of each of the following:

- 1) Adequacy of vehicular and pedestrian traffic safety on and off the site;
- 2) Adequacy of utilities and other public services;
- 3) Impacts on the natural environment.

7.5.7 Conditions. The special permit may be granted with such reasonable conditions, safeguards, or limitations on use, including performance guarantees, site construction requirements, inspection requirements, and owner / occupancy reporting requirements to satisfy compliance with the special permit. The Planning Board may require additional conditions as it finds reasonably appropriate to safeguard the health, safety, and welfare of the existing neighborhoods and the Town of Upton or otherwise serve the purpose of this By-Law.

7.5.8 Change in Plans After Grant of Special Permit. No change in any aspect of the approved plans shall be permitted unless approved in writing by the Planning Board. A new or amended special permit will be required if the Planning Board determines any proposed change to be substantial. The Planning Board shall hold a public hearing if the proposed change is determined to be substantial, with the provisions of this By-Law.

No land for which a special permit for a large lot frontage reduction has been granted shall be further subdivided or be granted additional zoning waivers.

7.5.9 Lapse. The special permit shall lapse if a substantial use thereof or construction hereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval [plus such time required to pursue or wait the determination of an appeal referred to in G.L. c. 40A, s.17, from the grant thereof] with the Town Clerk.

7.6 ACCESSORY APARTMENTS

7.6.1 Purpose and Intent. It is the purpose of this By-Law to provide small additional dwelling units specifically intended for property owner family members, family au pair providers or family health care providers without adding to the number of buildings in the Town.

7.6.2 Special Permit Granting Authority. Accessory apartments may only be allowed by special permit from the Board of Appeals in accordance with the special permit process as set forth in this section as well as Section 9.3 of this Zoning By-Law.

7.6.3 Procedures.

- 1) Applications shall be filed in accordance with the rules and regulations of the Zoning Board of Appeals. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Zoning Board of Appeals.
- 2) The Zoning Board of Appeals shall hold a public hearing as required by M.G.L., Chapter 40A, s.11.
- 3) The Zoning Board of Appeals shall file its decision with the Town Clerk as required by M.G.L., Chapter 40A, s.9.
- 4) The special permit decision may be appealed pursuant to G.L., Chapter 40A, s.17 and filed within twenty days after the date the decision notice was filed with the Town Clerk.
- 5) No special permit, or any extension, modification or renewal thereof, can take effect until a copy of the decision bearing the certification of the Town Clerk is recorded in the registry of deeds.
- 6) The special permit shall lapse if a substantial use thereunder has not begun within twenty-four months following the filing of the special permit approval with the Town Clerk; provided, however, if before the expiration of the twenty-four months, the Zoning Board of Appeals finds that there is good cause for such lack of substantial use, the Zoning Board of Appeals may extend the permit.

7.6.4 Criteria. The Zoning Board of Appeals may grant a special permit for an accessory dwelling unit if it determines that all the requirements set forth in this