

6) Potential fiscal impact, including impact on town services, tax base, and employment.

9.3.3 Procedures. An application for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority.

9.3.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-Law.

9.3.5 Plans. Unless otherwise provided the rule or regulation of the Special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 9.4, herein. The provisions of this Section 9.4 should not apply to applications for special permits to reconstruct, extend, alter, or structurally change a nonconforming single or two-family structure. The SPGA shall establish procedures governing such applications by regulation.

9.3.6 Regulations. The Special Permit Granting Authority may adopt rules and regulations for the administration of this section.

9.3.7 Fees. The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

9.3.8 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s.17, from the grant thereof) with the Town Clerk.

9.4 SITE PLAN APPROVAL

9.4.1 Applicability. Except when conducted in relation to a special permit, site plan review and approval, when applied to a by right use, is an administrative process. The following types of activities and uses require site plan review by the Planning Board:

- 1) Construction, exterior alteration or exterior expansion of a two thousand (2000) square feet or greater area, or change of use within a municipal, institutional, commercial, industrial, or multi-family structure with four or more dwelling units.
- 2) Construction or expansion of a ten (10) car parking lot containing or that will contain 10 or more vehicle spaces for a municipal, institutional, commercial, industrial, or multi-family structure or purpose.

- 3) Personal Wireless Facility as provided for in Section 6.2.
- 4) Exception: Any construction, alteration, demolition, or removal of a structure that is considered routine maintenance or that does not result in a substantial change in appearance shall be exempt from these requirements.

9.4.2 Procedure. Applicants for site plan approval shall submit an application with ten (10) copies of the site plan to the Planning Board for review. A copy of the submitted site plan will be forwarded to the Board of Health, Conservation Commission, Public Works Department, Fire Department, Police Department, and Code Enforcement Department for their advisory review and comments. The Planning Board will also submit a copy of the site plan to the Town Clerk for public review. If comments from town departments are not received within 45 days of filing with the Planning Board it is deemed no opposition.

- 1) A site plan approval process requires a public hearing., within 90 days of filing the application. The applicant must provide the Planning board with an abutters list and must furnish notice of the proposed project to all abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the proposed project. The applicant will be responsible for sending this notice via United States Postal Service Certified Mail return receipt requested at his/her expense. All return receipts shall be submitted to the Planning Board at the opening of the scheduled public hearing. A minor change to an approved site plan does not require a public hearing, but requires approval of the Planning Board. The difference between a site plan review and a minor change to an approved site plan shall be stated in the Site Plan Rules and Regulations, as amended.
- 2) The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within 120 days of its receipt, and send notice of the decision to the applicant and file the decision with the Town Clerk. The decision of the Planning Board shall be upon the majority of the members of the Planning Board and shall be in writing. At the written request of the applicant, and with the concurrence of the Planning Board, the 120-day period may be extended.
- 3) No building permit or certificate of occupancy shall be issued by the Code Enforcement Department without the written approval of the site plan by the Planning Board, unless 120 days lapse from the date of the submittal of the site plan without final action by the Planning Board or an extension of such time has been granted.
- 4) An application for a building permit to perform work as set forth in Section 9.4.1, available as of right, shall be accompanied by an approved site plan.

- 5) An application for a special permit or a variance to perform work, as set forth in Section 9.4.1 shall be accompanied by an approved site plan. In the alternative, any special permit or variance granted for work set forth in Section 9.4.1 shall contain the following condition: The work described herein requires the approval of a site plan by the Planning Board pursuant to Section 9.4.1 of the Zoning By-Law. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.
- 6) Where the Planning Board approves a site plan with conditions, and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.
- 7) Where the Planning Board serves as the Special Permit Granting Authority for proposed work, it shall consolidate its site plan review and special permit procedures.
- 8) In addition to the requirements of this section, a site plan shall contain information specified in accordance with any Site Plan Rules and Regulations adopted by the Planning Board.
- 9) No deviation from an approved site plan shall be permitted without modification thereof.

9.4.3 Preparation of Plan. Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Planning Board. A Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect shall prepare plans, as appropriate. Dimensions and scale shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal.

9.4.4 Content of Plan. The content of the plan shall comply with the Site Plan Rules and Regulations adopted by the Planning Board, as amended from time to time.

9.4.5 Waiver of Technical Compliance. Upon a written request from the applicant, the Planning Board, where such action is in the public interest and not inconsistent with the intent and purpose of this section and its Rules and Regulations, may waive requirements of submitting a full site plan. Such determination may be made by an affirmative vote of not less than three (3) members of the Planning Board.

9.4.6 Approval. Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including

performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provisions for utilities and storm-water drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New buildings construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of the building form, grading, egress points, and other aspects of the development, so as to:

- 1) Minimize the volume of cut and fill, the length of removed stone walls, the number of large trees removed, the area of wetland vegetation displaced, the extent of storm-water flow increase from the site, soil erosion, and the threat of air, water, and noise pollution;
- 2) Maximize pedestrian and vehicular safety both on-site and egressing from it;
- 3) Minimize obstruction of scenic views from publicly accessible locations;
- 4) Minimize visual intrusion by controlling the visibility of parking and loading, signage, storage, or other outdoor service area viewed from public ways or premise residentially used or zoned;
- 5) Minimize glare from headlights and lighting intrusion;
- 6) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
- 7) Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premise involving the use, storage, handling, or containment of hazardous substances;
- 8) To provide adequate landscaping, screening and buffer areas;
- 9) Certification that the proposal is in compliance with the provisions, if applicable, of the American with Disabilities Act and the Massachusetts Architectural Barriers Board.

9.4.7 Period of Validity. Site Plan approval lapses if it is not exercised within two (2) years of the date on which the Planning Board decision is filed with the Town Clerk. Any lapsed Site Plan approval and any major amendment to the plan submitted in the original review process will require a new application and approval by the Board.

9.4.8 Rules and Regulations. The Planning Board may adopt and from time to time amend reasonable rules and regulations for the administration of this Site Plan

By-Law. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

- 9.4.9 Appeal. In the event of an unfavorable decision, the applicant may appeal the decision through the building permit process via the Zoning Board of Appeals and ultimately to a court of competent jurisdiction.

9.5 PLANNING BOARD ASSOCIATE MEMBER

- 9.5.1 The Planning Board, when it is sitting as the Special Permit Granting Authority, shall consist of five members and one associate member. The Planning Board chairman may designate an associate member to sit on the Board for purposes of acting on a special permit application in the case of absence, inability to act or conflict of interest of a regular member, or in the event of a vacancy on the Planning Board until said vacancy is filled in a manner provided under G.L. c. 41, s.81A.
- 9.5.2 The Associate Member shall be a registered voter in the Town of Upton and shall be appointed by the majority vote of the Selectmen and the Planning Board. The term of Associate Member shall be two years.