

## **SECTION 9.0 ADMINISTRATION AND ENFORCEMENT**

### **9.1 PERMITS AND ENFORCEMENT**

**9.1.1 Permits.** This Zoning By-Law shall be administered by the Building Inspector as Zoning Enforcement Officer. Pursuant to the State Building Code, the Building Inspector may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning and after all necessary permits have been received under federal, state, or local law.

**9.1.2 Enforcement.** The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Zoning By-Law and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Board of Selectmen to Town Counsel. No permit or license shall be granted for a new use of a building, structure, or land which would be in violation of this Zoning By-Law.

1. The Zoning Enforcement Officer shall act on requests for enforcement of this Zoning By-Law as provided in G.L. c. 40A, §7. Such requests shall be submitted in writing.

**9.1.3 Penalties.** The penalty for violation of any provision of this Zoning By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Zoning Board of Appeals shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

**9.1.4 Noncriminal Disposition.** In addition to the procedures for enforcement as described above, the provisions of the Zoning By-Law, the conditions of a permit granted under this Zoning By-Law or decisions rendered by the Zoning Board of Appeals or Planning Board under this Zoning By-Law may be enforced by the Zoning Enforcement Officer by a non-criminal complaint pursuant to the provisions of G.L. c. 40, §21D. The fine for any violation disposed of through this procedure shall be one hundred (\$100.00) dollars for each offense. Each day such violation continues shall be deemed a separate offense.

### **9.2 ZONING BOARD OF APPEALS**

**9.2.1 Establishment.** There shall be a Zoning Board of Appeals consisting of five (5) members and two (2) associate members to be appointed by the Board of Selectmen as provided in G. L. 40A §12.

**9.2.2. Powers.** The Zoning Board of Appeals shall have and exercise all the powers granted to it by G.L. cc. 40A, 40B, and 41 and by this Zoning By-Law. The Zoning Board of Appeals powers are as follows:

1. To hear and decide applications for Special Permits. Where specified herein, the Zoning Board of Appeals shall serve as the Special Permit Granting Authority.
2. To hear and decide appeals or petitions for variances from the terms of this Zoning By-Law with respect to particular land or structures, as set forth in G.L. c. 40A, §10. The Zoning Board

of Appeals shall not grant use variances.

3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, §§8 and 15.
4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, §§20-23.
5. To conduct Site Plan Approval where indicated herein.

**9.2.3 Regulations.** The Zoning Board of Appeals shall adopt rules and regulations for the administration of its powers and shall file a copy of said rules in the office of the Town Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of application forms, plans and specifications and the procedure for the submission and approval of such permits.

**9.2.4 Fees.** The Zoning Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

**9.2.5 Lapse.** If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, they shall lapse and may be reestablished only after notice and a new hearing as provided in G.L. c. 40A, §10.

### **9.3 SPECIAL PERMITS**

**9.3.1 Special Permit Granting Authority.** Any Board designated as Special Permit Granting Authority in this Zoning By-Law may hear and decide applications for Special Permits for specific types of uses upon which such board is specifically authorized to act under this Zoning By-Law in accordance with the provisions of G. L. c.40A §9. No action will be taken on a Special Permit application unless the applicant files the appropriate application form and fees and other material as required by the Special Permit Granting Authority. Unless otherwise designated by this Zoning By-Law, the Planning Board shall be the Special Permit Granting Authority.

**9.3.2 Criteria.** Special Permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Zoning By-Law, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;

5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

In addition, in making its determination, the Special Permit Granting Authority generally should consider the criteria and guidelines specified in Subsection 9.4.5.

**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 Review by Other Boards and Agencies.** The Special Permit Granting Authority shall within ten (10) days after receipt of an application for Special Permit transmit a copy thereof for review to the Board of Health, the Board of Selectmen, the Conservation Commission, the Historical Commission, the Tax Collector, the Zoning Board as Appeals, the Highway Superintendent, the Fire Chief, the Police Chief, the Zoning Enforcement Officer and others as necessary. Any board or agency to which such applications are referred for review shall make such recommendations they deem appropriate in writing, provided however, the failure to make recommendations within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

**9.3.5 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 Zoning By-Law.

**9.3.6 Plans.** Unless otherwise provided by 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 Subsection 9.4.3.1 herein and as required by the rules and regulations of the Site Plan Approval Board.

**9.3.7 Regulations.** 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 town clerk. Such rules shall prescribe a size, form, contents, style and number of copies of application forms, plans and specifications and the procedure for a submission and approval of such permits.

**9.3.8 Fees.** The Special Permit Granting Authority may adopt reasonable administrative fees and technical review fees for applications for Special Permits.

**9.3.9 Lapse.** Special Permits shall lapse if a substantial use thereof or construction thereunder 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 await the determination of an appeal referred to in G.L. c. 40A, §17, from the grant thereof) with the Town Clerk.

## **9.4 SITE PLAN APPROVAL**

**9.4.1 Purpose.** The purpose of this Section is to protect the health, safety, convenience and general welfare of the inhabitants of the Town by providing for the approval of plans for uses and structures which may have impacts, both within the site and in relation to adjacent properties and streets, on pedestrian and vehicular traffic; public services and infrastructure; environmental, unique and historic resources; abutting properties; and community needs.

**9.4.2 Applicability.** Notwithstanding anything contained in this Zoning By-law to the contrary, no building permit for construction, exterior alteration, relocation, or change in use except where noted, shall be granted for any use requiring Site Plan Approval under Section 3 and other Sections of this By-Law until the provisions of this Section have been fulfilled and an application approved by the Site Plan Approval Board, which shall be the Zoning Board of Appeals.

1. Educational and religious uses exempt pursuant to G.L. c. 40A, §3, and child care facilities similarly exempt, shall be subject to Site Plan Approval for the limited purpose of imposing reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, as set forth in the statute.

**9.4.3 Application Procedure.** An applicant for Site Plan Approval shall file an application form, fee, seven copies of the site plan, and any additional information as may be required, with the Site Plan Approval Board. A copy of the application shall be filed with the Town Clerk and the Tax Collector by the applicant. The following information shall be filed at the time of application:

1. a site plan, which shall include landscape, utility and drainage information, building elevations, and a traffic plan. An application shall not be considered complete until all required information and fees are submitted.

The exact form and contents of the application, fees, plans and information shall be as required by the Rules and Regulations of the Site Plan Approval Board. The Board shall adopt, and may periodically amend, after a public hearing, such Rules and Regulations relating to the procedures and administration of this Section and such Rules and Regulations shall be on file at the Town Clerk's office.

**9.4.4 Review Procedure.**

1. The Site Plan Approval Board shall transmit copies of the application and site plan to the Fire Chief, Police Chief, Conservation Commission, Historical Commission, Board of Health, Zoning Enforcement Officer, Highway Superintendent, Planning Board, Board of Selectmen and others as necessary. These Boards and departments shall have thirty-five (35) days to report to the Site Plan Approval Board their findings and recommendations. Failure to report in the allotted time shall constitute approval by that Board or Department of the application submitted.
2. Notice, including notice to parties of interest, and public hearing shall be done in accordance with the procedures required for Special Permits, as found in Subsection 9.3. The Site Plan Approval Board shall schedule a viewing of the property for the purpose of making an informed decision.

**9.4.5 Review Criteria/Design Guidelines:** The following criteria and guidelines shall be used by the Board in evaluating the site plan and all information submitted as part of the application.

1. General.
  - a. Conformance with all appropriate provisions of the Zoning By-Law.

- b. Protection of Town amenities and abutting properties through minimizing of detrimental or offensive actions.
- c. Protection of abutting properties from detrimental site characteristics.

## 2. Environmental.

- a. Protection of unique or important natural, historic or scenic features.
- b. Adequacy of proposed methods of refuse disposal.
- c. Ability of proposed sewage disposal and water supply systems on the site to serve the proposed use.
- d. Adequacy of the proposed drainage system within and adjacent to the site to handle the increased runoff resulting from the project.
- e. Provision of adequate landscaping, including the screening of adjacent residential uses.
- f. Adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction.
- g. Protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and building exterior lighting, through the use of cut off luminaries, light shields, lowered height of light poles, screening or similar solutions.
- h. Protection of adjacent properties from the intrusion of noise.
- i. Protection of wetlands by building in accordance with the provisions of the Wetlands Protection Act, G. L. c. 131, § 40.

## 3. Design.

- a. The project shall be reasonably consistent with surrounding buildings and development with respect to setbacks, placement of parking, landscaping and entrances and exits.
- b. The project shall avoid, to the extent feasible, any impact on steep slopes, flood plains, scenic views, grade changes and wetlands.
- c. If there is more than one building on the site, the buildings shall relate harmoniously to each other in architectural style, site location and building exits and entrances.
- d. Screening shall be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features.

4. Traffic/Parking.

- a. 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.
- b. The location and number of curb cuts shall be such to minimize turning movements and hazardous exits and entrances.
- c. The location and design of parking spaces, drive aisles, loading areas and walkways shall be provided in a safe and convenient manner.
- d. Joint access driveways between adjoining properties shall be encouraged.
- e. A traffic impact report shall be required, unless waived by the Site Plan Approval Board. Information required as part of this report shall be as set forth in the Rules and Regulations of the Site Plan Approval Board.
- f. Safety hazards shall not be created or added to as a result of traffic generated by the proposed project.

**9.4.6 Decision.** The concurring vote of a majority of the membership of the Board shall be required for any decision on a site plan application. The Site Plan Approval 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. The Board's written decision shall consist of either:

1. Approval of the site plan based on a determination that the proposed project meets all of the requirements of this Section; or
2. Approval of the site plan subject to conditions, modifications and reasonable restrictions necessary to ensure compliance with the requirements of this Section; or
3. 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.

**9.4.7 Conditions.** Conditions may include the following:

1. Controls on location and type of access to the site.
2. Requirements to reduce the traffic impact of the proposed project.
3. Requirements to minimize impacts on the capacities of infrastructure serving the site.
4. Requirements to minimize any environmental degradation during construction.

5. Other conditions designed to ensure compliance with the criteria and guidelines of this Section.

6. For the purpose of securing the performance of all proposed work, including landscaping and off-site improvements, the Board may require any of the following: a performance bond, deposit of money, bank passbook, or letter of credit in an amount determined by the Board to be sufficient to cover the cost of all or any part of improvements required.

**9.4.8 Lapse.** Any Site Plan Approval granted under this Section shall expire in two years if substantial construction has not begun by such date.

**9.4.9 Appeal.** Decisions of the Site Plan Approval Board regarding Site Plan Approval shall be appealed as set forth in G.L. c. 40A, §17 to a court of competent jurisdiction.

## **9.5 PLANNING BOARD ASSOCIATE MEMBER**

The Board of Selectmen and the Planning Board by a majority of each Board, acting pursuant to G.L. c. 40A, §9, may appoint an associate member of the Planning Board who shall be available to serve as an associate member when the Planning Board acts as the designated Special Permit Granting Authority under this Zoning By-Law. The Chair of the Planning Board may designate the associate member to sit on the Board for the purpose of acting on a Special Permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.