



**PLANNING BOARD RULES AND REGULATIONS RELATIVE
TO THE ISSUANCE OF SPECIAL PERMITS
AND SITE PLAN REVIEW**

(Incorporating Changes Voted at Town Meeting, April 23, 2007)

These Rules and Regulations have been prepared by the Planning Board in compliance with Chapter 40A, Sections 9 of the Massachusetts General Law for the purpose of establishing uniform rules and procedures for the granting of Special Permits A3 and Site Plan Approval pursuant to certain sections of the Hingham Zoning By-Law. Applicants must also comply with any and all other requirements and procedures set forth in the Zoning By-law in addition to those specified in these Rules and Regulations.

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Applications for the following are available on the Town of Hingham website, www.hingham-ma.com and at the Planning Board office, 210 Central Street, Hingham, MA.

- Site Plan Approval in Association with a Special Permit A2
- Site Plan Approval in Association for an Application for a Building Permit
- Application for Special Permit A3

SPECIAL PERMITS A3

When is a Special Permit A3 Needed?

Section I-J of the Hingham Zoning By-Law authorizes the Planning Board to serve as the Permit Granting Authority for all Special Permits A3. At this point, Special Permits A3 are issued by the Planning Board for the following:

1. **Flexible Residential Developments**

Please refer to Section IV-D of the Zoning By-Law for more information on the purpose and procedures for Flexible Residential Developments.

2. **Relief from Off-Street Parking Requirements**

Section V-A (1) of the Hingham Zoning By-Law states that “The Planning Board may grant a Special Permit A3 which provides relief from portions of these regulations if it finds that it is impractical to meet these standards and that a waiver of these regulations will not result in or worsen parking and traffic problems on the surrounding streets or adversely affect the value of abutting lands or buildings.”

3. **Parking Determinations**

Section V-A (2) of the Hingham Zoning By-Law sets forth off-street parking requirements for most uses. For uses not specifically covered by the By-Law, parking requirements shall be determined by Special Permit A3 issued by the Planning Board.

Submittal Requirements for Special Permit A3 Applications

1. Special Permit A3 Application Form (attached)
Must be signed by the property owner and applicant or duly authorized agents.
2. Statement of Findings (attached)
Must be signed by the property owner and applicants, or their duly authorized agent.
3. Deed or Land Court Certificate of Title or other evidence of the applicant’s standing to seek the Special Permit. Easements, rights of way and other legal encumbrances mentioned in the Deed or Certificate should also be included.
4. Site Plan- Existing Conditions
The latest recorded plan of the subject property or a plan of the land endorsed by a registered professional engineer or land surveyor. Include north arrow, scale, zoning district, lot dimensions and area, flood plain line, topography, street layout and paving, existing buildings and other improvements.
5. Site Plan -Proposed Conditions
Show all proposed modifications to the site including location of new buildings, structures, roadways, entrances and egresses, and parking areas. Include north arrow, scale, zoning district, lot dimensions and area, flood plain line, topography, street layout

and paving, existing buildings and other improvements. Plans shall be signed by a registered professional engineer, landscape architect or architect licensed in Massachusetts.

6. Additional Submittal Requirements for Flexible Residential Developments
Additional submittal requirements for applications for Flexible Residential Developments are outlined in Section IV 5 (a) of the Hingham Zoning By-Law.
7. Certified List of Abutters
The applicant must prepare a list of abutters, as defined in M.G.L. ch. 40A Section 11, for certification by the Board of Assessors.
8. Filing Fee: \$300.00

Application Process

For all Special Permits A-3, the applicant shall file one copy of the complete application with the Town Clerk, and one original and six copies of all application material to the Planning Board.

For Special Permit A-3-Flexible Residential Development, please refer to the additional application requirements outlined in Section IV-D (5) a, b and c. Additional duplicate copies of the complete application may be requested as directed by the Town Planner.

Public Notice Requirements

The Planning staff will assist you with your public notice requirements. Public Notice relative to Special Permits A3 will be done in accordance with the public notice requirements outlined in Chapter 40A Section 11. This means that all parties in interest (abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, and the planning board of every abutting city and town) will be notified of the hearing, and a notice will appear in the local newspaper at least two weeks prior to the hearing date.

The Hearing

The Planning Board shall hold a public hearing on the application, as provided in Massachusetts General Laws, within 65 days of the filing of a complete application. In general, applications are heard within 30 days of filing with the Board if the application is complete and in order. Depending on the complexity of the project the hearing could be continued over several weeks, though many are completed in one night. The hearing will be closed when the Board has determined that it has gathered sufficient information to render a decision. At that time the Board will vote to close the hearing. The Board is not required, however, to vote on the application before the close of the hearing, and may decide the matter at a later, regularly posted meeting.

Voting Requirement

In the case of a five member board such as the Hingham Planning Board, M.G.L. Ch. 40A Section 9 requires a vote of four out of five members to grant a Special Permit. The members constituting the quorum must be present at each session of the hearing in order to render a proper decision. If the Board lacks a quorum at a scheduled hearing, the Chairman shall continue the

hearing to a specific date, time and location. If the Board has only the bare minimum to make the quorum, the applicant may request a continuation of the hearing at a time when the additional member will be present.

The Decision

All decisions shall be made in writing. The written decision shall contain the following:

1. The date the decision was rendered;
2. The name of the appellant, petitioner or applicant;
3. The name and address of the owner, if different from the appellant, petitioner or applicant;
4. The time, date and place of the public hearing;
5. A statement that the hearing was duly held;
6. Description of relief or action sought;
7. A statement that the Special Permit was granted, in whole or in part, and a statement describing the terms of the Special Permit and any conditions imposed;
8. A statement of the basis for the decision, with Specific reference to Chapter 40A of the Massachusetts General Laws and/or the Zoning By-Law.

In addition to the foregoing, the written decision may include a brief account of the testimony and evidence presented. All decisions must be signed by at least one member of the Board who heard and voted on the application in question.

Filing and Distributing the Decision

The Planning Board must file a written decision with the Town Clerk within 90 days after the close of the public hearing. A copy of the decision must be filed, forthwith, to the owner, applicant or designated agent. Written notice of the decision shall be provided to parties in interest and to every person present at the hearing who requested a final copy of the decision and provide an address to which it should be sent. Each notice shall specify that appeals, if any, shall be made pursuant to M.G.L ch. 40A Section 17, and must be filed within twenty days after the written decision is filed with the Town Clerk.

Town Clerk Certification and Recording

After twenty days have elapsed from the date a decision is filed, the applicant may ask the Town Clerk to certify on a copy of the decision that no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied. Any relief granted shall not take effect until a certified copy of the decision, with plans if necessary, has been recorded in the Plymouth County Registry of deeds, is indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's certificate of title. It is the responsibility of the owner or the appellant to make and pay the fee for such recording or registering. The Building Commissioner shall not issue a building permit until proof of recording is presented.

Review Fees

All applications for Special Permits A3 may, at the discretion of the Planning Board, be submitted to professional consultants for independent review at the applicant's expense. As specified in "Site Plan Review-Costs" Section I-I, 2 of the Zoning By-Law of the Town of

Hingham, the cost for which the applicant is responsible shall not exceed the greater of \$10,000 or one percent of the total cost of the project. Such project review fees will be collected, disbursed and, if necessary, returned to the applicant in accordance with the terms of M.G.L Section 53G.

Repetitive Petitions

In accordance with Mass General Law Chapter 40A, Section 16, no Special Permit A3 which has been unfavorably acted upon by the Planning Board shall be acted favorably upon within two years after the date of final unfavorable action unless the Planning Board finds “specific and material changes” in the conditions upon which the previous unfavorable action was based, and unless all but one of the Planning Board members consents thereto.

Procedural Requirements for Repetitive Petitions

1. The Planning Board must provide notice to parties in interest of the “proceedings at which its “consent” will be considered.
2. All but one of the Planning Board members must vote to give consent for the application to proceed.
4. The Planning Board must review the application and find that “specific and material changes” have occurred in the conditions on which the unfavorable decision was based.
5. The Planning Board must describe such changes in the record of its proceedings.

A3 Process Summary

- Applicant submits completed A3 application to Town Clerk and Planning Board
- Notify “parties of interest” and post legal ad
- Hearing within 65 days
- Decision written and filed with Town Clerk within 90 days after close of hearing
- Immediately after filing with Town Clerk-
 - Provide a copy of the decision to the applicant
 - Provide notice of the decision to “parties in interest” including final date of appeal period

SITE PLAN REVIEW

What is Site Plan Review?

Site Plan Review is defined in the Hingham Zoning By-law as “a comprehensive procedure to review development projects to ensure compliance with the provisions of the Zoning By-Law, to minimize adverse impacts of such development, and to promote development, which is harmonious with surrounding areas.”

When is Site Plan Review required?

1. Site Plan Review for Projects which Require Special Permit A2 from ZBA

Site Plan Review by the Planning Board is required for all projects that require a Special Permits A2 from the Zoning Board of Appeals. These can be identified by looking at the Schedule of Permitted Uses at Section III-A of the Zoning By-Law. The Board of Appeals shall not make a decision on a Special Permit A2 application until it has received the Planning Board’s site plan review decision, or until the Planning Board’s review period (including any extensions thereto) has expired without any action by the Planning Board.

2. Site Plan Review in Association with the Issuance of a Building Permit

Site Plan Review is required for all **building permit** applications subject to Special Requirement 6 of Section IV-B of the Zoning By-law. These include:

- a. all non-residential projects which are estimated to cost \$20,000 or more;
- b. all projects which 1) create a land disturbance or an alteration of drainage patterns over an area greater than 20,000 square feet; or 2) create a land disturbance of more than 2500 square feet in areas with slopes greater than 10% (see exemptions at Section IV-B (6) b of the Zoning By-law)

Application Process

Pre-Application Meeting

For all projects requiring Site Plan Review, applicants are encouraged to contact the Town Planner for an informal consultation about the project prior to submittal. Applicants may also submit a pre-application sketch of the proposed project for review by the Planning Board at a regularly scheduled meeting.

Application Procedures for Site Plan Review in Association with a Special Permit A2.

Applications for a Special Permit A2, or any modifications of a Special Permit A2, and Site Plan Review shall be filed with the Zoning Board of Appeals and Planning Board simultaneously. The joint A2/Site Plan application form (attached), is available at the office of the Planning Board or the Zoning Board of Appeals.

When completed, the applicant should consult with the Zoning Administrator to determine exactly how many copies of the application are needed. At a minimum, the following number of copies shall be provided:

- One copy shall be filed with the Town Clerk
- Four copies shall be filed with the Zoning Board of Appeals, along with additional copies for distribution to the Board of Health, Building Commissioner, Conservation Commission, Department of Public Works, Fire Department and Police Department, and other applicable departments, boards and committees as determined by the Zoning Administrator.
- Seven (7) copies shall be filed with the Planning Board

Application Procedures for Site Plan Review in association with the issuance of a Building Permit.

Applications for Site Plan Review in Association with the Issuance of a Building Permit (attached) are available at the Office of the Planning Board. When completed, the applicant shall provide seven (7) copies to the Planning Board, along with additional copies for distribution to the Board of Health, Building Commissioner, Conservation Commission, Department of Public Works, Fire Department and Police Department, and other applicable departments, boards and committees as determined by the Town Planner. .

Submittal Requirements

Each application for a Site Plan Approval shall include the following information prepared by qualified registered professionals, either shown on wet-stamped and signed plans or other supporting documentation:

- a. a fully completed application
- b. locus plan; diagram and statement of the ownership, area, dimensions, boundaries and principal elevations of the subject property; location of structures within 100 feet of property line;
- b. scaled and dimensioned plan of the location and footprint of existing and proposed buildings and structures; if applicable, building elevations and floor layouts;
- c. if applicable, plan showing proposed circulation of traffic within the development and in all adjacent public ways; dimensioned plan of loading and parking areas, aisles and driveways; plan with detail sheets if appropriate, profile and representative cross sections of proposed driveways and parking areas;
- d. analysis of compliance with all relevant dimensional provisions of this By-Law;
- e. detailed information on utilities, lighting, landscaping, refuse storage and removal;
- f. grading plan, drainage analysis and traffic analysis, as applicable;
- g. analysis of the capacity of Town soils, water supply, ways and services to absorb the impact of the proposed development;
- h. analysis of compliance with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Policy and Standards, and Massachusetts Erosion Sediment and Control Guidelines; and
- i. such other materials necessary to enable Town boards to make a positive determination on the proposed development.

Public Notice

Notice of a site plan review hearing in connection with any application also requiring a Special Permit A2 from the Board of Appeals shall be given in accordance with M.G.L. c. 40A, s 11. This means that all parties in interest (abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, and the planning board of every abutting city and town) will be notified of the hearing, and a notice will appear in the local newspaper. Site Plan Review in association with the issuance of a building permit shall only occur at regularly scheduled and posted meetings of the Planning Board. Notice to individual abutters and in the newspaper is not required.

Public Hearing and Board Action

The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, and notify the applicant of its decision. The decision of the Planning Board shall require an affirmative vote of three members and shall be in writing. If public notice is required, the Planning Board shall act within seventy-five (75) days of its receipt of the Site Plan Review application, provided that, if the Planning Board or its review consultants have requested (no later than forty (40) days after receipt of the application) additional information or submittals from the applicant, such supplemental information shall be delivered no later than sixty (60) days after receipt of the application. If such additional information is not received by such sixtieth day, the Planning Board may extend its period of review until the date that is fifteen (15) days after receipt of all such supplemental information from the applicant.

If public notice is not required, the Planning Board shall act within forty-five (45) days of its receipt of the Site Plan Review application, provided that, if supplemental information requested by the Planning Board or its review consultants (no later than twenty days after receipt of the application) is not delivered to the Planning Board by the thirtieth day after receipt of the application, the Planning Board may extend its period of review until the date that is fifteen (15) days after receipt of all such supplemental information from the applicant. The foregoing timeframes do not preclude the Planning Board from requiring (after such fortieth or twentieth date, as applicable) submission of supplemental information not previously requested.

Site Plan Review Standards and Approval

In reviewing each such application the Planning Board shall study the site plan with reference to the health, safety and welfare of the prospective occupants, the occupants of neighboring properties, and users of the adjoining streets or highways, and the welfare of the Town generally, including its amenities. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives.

The Planning Board shall limit the proposed development so that its impact on each of the municipal services, ways, utilities and other resources does not exceed its existing design capacity. This limitation shall be imposed upon the proposed development regardless of the intensity of development otherwise permitted by this Zoning By-Law.

In conducting a site plan review, the Planning Board shall consider the following:

- a. protection of adjoining premises against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and sight buffers and preservation of views, light, and air;
- b. convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles;
- c. adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law;
- d. adequacy of open space and setbacks, including adequacy of landscaping of such areas;
- e. adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;
- f. prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources;
- g. assurance of positive stormwater drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and stormwater pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection's Stormwater Management Policy and Standards, and Massachusetts Erosion and Sediment Control Guidelines.
- h. protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations: and
- i. minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.

Site Plan Review Conditions

The conditions imposed by the Planning Board shall be incorporated in any Special Permit A2 issued by the Board of Appeals. The Board of Appeals may add additional conditions to the issuance of a special permit, but may not remove any conditions imposed by the Planning Board or modify any condition except as follows. The Board of Appeals may propose to the Planning Board the modification or removal of a site plan condition imposed by the Planning Board. Failure of the Planning Board to issue a revision to the site plan conditions within twenty-one (21) days shall be deemed a denial of that proposal.

A final certificate of occupancy shall not be issued until the applicant has complied with or satisfied all conditions to the Special Permit A2 or, in the case of building permits with site plan review, all conditions of the site plan review decision, except for those conditions which by their terms are intended to be satisfied after occupancy of the structures for which the certificate of occupancy is sought.

Decision

The decision of the Planning Board shall be by a majority of those present and voting and shall be in writing. No building permit or certificate of occupancy shall be issued by the Building Commissioner without the written approval of the site plan by the Planning Board, or unless 60 days or 45 days, as applicable, lapse from the date of the submittal of the site plan without action by the Planning Board.

Technical Review Costs

The costs of professional consultants, experts or assistance incurred by the Board of Appeals or Planning Board shall be borne by the applicant.

Costs to be paid by the applicant shall not exceed the reasonable and usual charges of said consultants or other experts for such services nor shall they exceed the greater of \$10,000 or one percent (1%) of the total projected cost of the project (inclusive of engineering, architectural, and legal fees and other soft costs).

The applicant shall deposit with his application an appropriate portion of the anticipated review costs as determined by the Boards' administrators as security for payment on such costs. No occupancy permit may be issued in accordance with Section I-C of this By-Law until the applicant has paid or reimbursed the Town for all such costs.

Lapse

Site plan approval shall lapse after two years from the grant thereof if a substantial construction or use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

Waiver of Requirement for Site Plan

Upon written request of the applicant, the Planning Board may waive any of the submittal requirements set forth in Section I-I, 6 deemed by the Planning Board to be not necessary for its review of the application. In addition, the Planning Board may waive other such requirements of this Section I-I, including the requirement for a public hearing, where the Planning Board determines that the project constitutes a minor site plan. In order to constitute a minor site plan, the proposed work must be limited to (a) interior renovations to a building or structure which do not include a change of use for which a Special Permit A2 or A3 is required and/or (b) modifications to the site which, in the Planning Board's determination, do not materially or adversely affect conditions governed by the site plan review standards set forth in Section I-I, 6.