

TOWN OF SWAMPSCOTT

OFFICE OF THE PLANNING DEPARTMENT

ELIHU THOMSON ADMINISTRATION BUILDING 22
MONUMENT AVENUE, SWAMPSCOTT, MA 01907



SITE PLAN REVIEW & SPECIAL PERMIT RULES & REGULATIONS

Adopted By

Swampscott Planning Board – March 11, 2013

Swampscott Zoning Board of Appeals – March 27, 2013

Updated

Swampscott Planning Board – June 10, 2019

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- *It is the responsibility of the Applicant to ensure site plan applications are complete. Incomplete applications will not be accepted.*
 - *A preliminary consultation between the Applicant and the Town Planner prior to filing an application is recommended and can prevent delays and unnecessary expenses.*
 - *After application filing, it is recommended that the Applicant also meet with the Board of Health, Building Inspector, Town Engineer, Fire Department, Police Department and Conservation Commission in order to discuss any concerns these departments and officials may have regarding the site plan review.*
 - *The information provided in these Rules & Regulations is intended for informational purposes only and is not intended to be legal advice or to substitute or supersede any Town, State or Federal laws. Additional information may be required by the Town of Swampscott to properly process the Applicant's site plan review.*
 - *In the event there's a conflict between these Rules & Regulation and the Swampscott Zoning By-Law, the Zoning By-Law shall control.*
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For further information regarding the site plan review and special permit process, please contact:

Office of
Community &
Economic
Development
781.596.8829

1. SITE PLAN REVIEW CONTEXT

1.1 PURPOSE

The aim of these Rules & Regulations is to provide a summary of the site plan review process and requirements of the Town of Swampscott. The Rules & Regulations provide information for residents, property owners and developers as a supplement to the Zoning By-Law as approved by the Swampscott Planning Board and Zoning Board of Appeals (ZBA).

1.2 WHAT IS SITE PLAN REVIEW?

The development of land can have a profound impact upon the cost and efficiency of public services and upon those facilities and environmental qualities conducive to the wellbeing of citizens, such as the efficiency and safety of vehicular and pedestrian movement. Site plan review is a process established by the Town to protect and promote the health, safety, convenience and general welfare of the residents of Swampscott. Site plan review also facilitates orderly growth and development, and ensures that such development is done in a manner harmonious with surrounding properties while being consistent with the Swampscott Zoning By-Law.

Site plan review is used:

- By the Planning Board for Administrative Site Plan Review applications
- By the Planning Board and Zoning Board of Appeals for Site Plan Special Permit applications

1.3 LEGAL BASIS

Section 5.4.0.0 of the Swampscott Zoning By-Law gives authority to the Swampscott Planning Board and Zoning Board of Appeals to carry out site plan review as outlined below:

(i) Administrative Site Plan Review

- a) Performed by the Planning Board;
- b) Per section 5.4.9.0, applicable to the following activities/uses (no site plan special permit):
 1. Construction of Renewable and Alternative Energy Research and Development Facilities (RE/AE R&D Facilities) in the I District under sections 2.1.1.8 and 2.2.3.0;
 2. Projects located within the Planned Development Districts (PDDs) under sections 2.1.1.7 and 4.5.0.0

(ii) Site Plan Special Permit

- a) The Planning Board unless the development requires one (1) or more additional special permits or variances; or
- b) The ZBA when the development requires one (1) or more additional special permits or variances;

In cases where ZBA is the Site Plan Special Permit Granting Authority (SPSPGA), the Planning Board will perform a site plan review to provide recommendations to the ZBA;

Per section 5.4.2.0, Site Plan Special Permit shall be applicable to the following activities and uses:

- (i) *Commercial* – Construction, exterior alteration or exterior expansion of a non-residential structure that either: (i) changes or alters the building footprint of a development that previously required site plan approval or a site plan special permit, or (ii) involves more than eight hundred (800) square feet of gross floor area. Multi-family structures as defined by the Zoning By-Law are considered a non-residential structure.
- (ii) *Residential - Addition* – Construction, exterior alteration or exterior expansion of a single or two-family residence that either: (i) changes or alters the footprint of a residence that previously required site plan approval or a site plan special permit, or (ii) involves an addition of more than eight hundred (800) square feet of gross floor area as defined by the Zoning By-Law.
- (iii) *Residential - New* – Any new construction of a single or two-family residence involving more than three thousand (3,000) square feet of gross floor area.
- (iv) *Parking Area or Lot* – Construction or expansion of a parking lot for an exempt, municipal, institutional, commercial, industrial, or multi-family structure or purpose, or for single- or two-family residential purposes where a parking area or lot capable of accommodating more than three (3) vehicles is proposed. A parking area or lot serving a development containing more than three (3) dwelling units shall be subject to site plan approval. Any change in size, location or number of parking spaces, circulation lanes, curb cuts, or landscape areas of parking areas or lots that previously required site plan or a site plan special permit shall require a site plan special permit.
- (v) *Subdivision* – Any subdivision of land and subsequent construction of structures thereon.
- (vi) *Adult Uses* – Any proposed Adult Use, as defined in the Zoning By-Law, whether in a new or existing structure, it being the intent that the entire lot, not just the individual Adult Use, shall be subject to review.
- (vii) *Site Preparation* – In all districts, no site preparation shall be undertaken on a vacant lot until approval for a construction project requiring a site plan special permit is obtained from the Site Plan Special Permit Granting Authority. Site preparation is herein defined as a change in topography or cover (for example, excavation, dredging, filling, changing the grade, blasting, removal of trees or other vegetation). Borings and test pits to determine subsoil conditions are not included in this definition. Ordinary maintenance of vacant lots is exempt.

1.2 REVIEW CONSIDERATIONS

The board reviewing the site plan application (administrative or special permit) will use the following objectives (per section 5.4.8.0) to guide it in making a final determination:

- (i) Social, economic, or community needs which are served by the proposal;
- (ii) Traffic flow and safety, including parking and loading;
- (iii) Adequacy of utilities and other public services (per the Planning Board's Subdivision Rules and Regulations);
- (iv) Neighborhood character and social structures;
- (v) Impacts on the natural environment;
- (vi) Potential fiscal impact, including impact on town services, tax base, and employment; and
- (vii) New building construction or other site alteration shall be designed so as to:
 - a) Minimize the volume of cut and fill, the number of removed trees six (6) inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
 - b) Maximize pedestrian and vehicular safety both on the site and for access and egress;
 - c) Minimize obstruction of scenic views from publicly accessible locations;
 - d) Minimize visual intrusion by controlling the visibility of parking storage, or other outdoor service areas viewed from the public ways or premises residentially used or located in residential zoning districts;
 - e) Minimize glare from headlights and lighting intrusion;
 - f) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
 - g) Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
 - h) Ensure compliance with the provisions of the Zoning By-Law, including parking and landscaping; and
 - i) Minimize adverse traffic impact of the proposed project.
 - j) Minimize the hazard of coastal flooding, taking into account the effects of long-term sea level rise and storm surge.

1.3 PEER REVIEW

When reviewing any application for a site plan special permit, the respective Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of the proposed project or use, or because of the project's uses or potential impacts.

The Board shall require a traffic impact report peer review for the following projects:

Residential Projects

- Adding more than three units (such that the resulting unit count is more than five units), OR
- New construction of 5,000 square feet or addition of more than 2,000 square feet of building area.

Commercial Projects

- Projects involving five or more residential dwelling units, OR
- In the B-1 or B-2 districts, construction of more than 5,000 square feet of building area, OR
- In the B-3 district, construction of more than 7,500 square feet of building area

Additionally, the Board shall require a topography and drainage plan peer review if the project meets the requirements above and the site is not currently developed or connected to Town services.

The Board may engage consultants such as engineers, architects, planners, lawyers, urban designers or other appropriate professionals. The Board shall in such instances require the Applicant to pay a "project review fee" consisting of the actual costs incurred for the employment of consultants engaged by the Board, but contracted directly with the Applicant, to assist in the review of the project. An Applicant may appeal the Board's choice of a particular professional in accordance with M.G.L. Chapter 44 Section 54G. The funds received with respect to a specific project, and any interest accruing thereon, may be expended only for services rendered in connection with that project and any excess at the completion of the review shall be refunded to the Applicant. The failure of an Applicant to pay a project review fee shall be grounds for denial of the site plan special permit.

The Board shall require the Applicant to pay the reasonably estimated cost(s) of the review in advance of the review and withhold action on the application until the review fees are paid. The Town will not handle receipt or disbursement of peer review fees. Applicant will contract with reviewer; the Town will provide oversight of this process.

2. SITE PLAN SUBMITTAL REQUIREMENTS

2.1 FORM

All applications for site plan review and site plan special permit shall be on a form approved by the ZBA and Planning Board and shall be signed by the Applicant or someone duly authorized in writing to act on his or her behalf. A property held by a nominee trust must identify the name of the trust and its trustee(s).

2.2 APPLICATION MATERIALS

Site plans shall be submitted on two foot by three foot (2' x 3') sheets. Plans shall be prepared by a Massachusetts-licensed Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal

The number of copies of the site plan application to submit is dependent upon the type of review you are applying for (see section "1.2 What is Site Plan Review"):

- (i) Administrative Site Plan Review (use "Application for Site Plan Review")
 - a. Thirteen (13) copies
- (ii) Site Plan Special Permit (use "Application for Zoning Relief")
 - a. Zoning Board as Permit Granting Authority – Seventeen (17) copies
 - b. Planning Board as Permit Granting Authority – Thirteen (13) copies

Once an application has been advertised for its public hearing, the submitted plan shall not be exchanged, altered, or revised in any way, except to the extent that the respective Board may initiate, or the Board at the Applicant's request may allow (following a public hearing).

Site plan applications shall include the following items (*plans must use a minimum scale of one (1) inch equal to forty (40) feet, unless otherwise stated*):

	Commercial Project*	Residential Project
<p>Site Plan Layout – Containing the boundaries of the lot(s) in the proposed development, locations and dimensions of existing and proposed structures, driveways, internal roadways and access ways to adjacent public roadways, all parking areas, loading areas, walkways, and areas for snow storage after plowing (for commercial projects). Plan shall be dimensional to show distances to all setback lines. Site layouts older than 18 months from the date of application will not be accepted.</p> <p>Should the proposed construction intrude into any required front, side, or rear yard setback area to a point that is in excess of 75% of the required setback area, then a <u>certified instrument survey</u> must be provided.</p> <p>Commercial Projects: First sheet shall be a locus plan (scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries.</p> <p>Include: computations for minimum open area percentage of the lot; street number of subject property and Assessor’s map and parcel number(s); location and linear distance from property lines of houses and other structures on abutting parcels; the current zoning district(s) of the property; existing and proposed Town releases and easements (drain, water and/or sewer pipes and electrical service), private and public right-of-ways and easements; exterior tanks, containers, and mechanical systems.</p> <p>Lot subdivision: Whenever an application involves the subdivision of a parcel of land into two or more lots, any of which would be non-conforming and/or the original lot is made more non-conforming as to size, shape, and/or dimension, the required site layout must show any future construction; and design plans must also be submitted (at the time of application) regardless of the anticipated time of construction.</p>		
<p>Locus Plan – Containing the Applicant’s lot and adjacent streets, and footprints of the Applicant’s proposed structures and/or existing structures with proposed additions, and showing the footprints of houses and other buildings on abutting lots. Distances of adjacent homes to the Applicant’s property lines shall be dimensional on the plan. Locus plans older than 18 months from the date of application will not be accepted.</p>		X
<p>Topography and Drainage Plan – Showing location of all existing natural features, including ponds, brooks, streams and wetlands, and which shall contain the existing and proposed final topography at two (2) foot intervals, and plans for handling stormwater drainage.</p>	X	
<p>Utility Plan – Include the locations and dimensions of all utilities, gas, telephone, electrical, communications, water, drainage, sewer and other waste disposal facilities, the location of all hydrants, fire alarms and firefighting facilities on and adjacent to the site, the location and type of external lighting, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.</p>	X	

* For the purposes of site plan review, multifamily projects (three or more units) are considered commercial.

	Commercial Project*	Residential Project
<p>Architectural Plan – Elevations for all sides of the building(s), existing and proposed. Elevations shall show architectural style intended and shall indicate exterior materials and colors proposed.</p> <ul style="list-style-type: none"> For commercial projects, a ground floor plan and color rendering shall be included. For residential projects, scale must be at one-quarter (1/4) inch equals one (1) foot and all dimensional floor plans included. <p>All architectural plans must be dated, drawn to scale with scale indicated, and showing all areas with new construction.</p> <p>Interior plans should include each area of the building affected by new construction and include entire floor plan for major additions.</p> <p>The drawings of the exterior must include all sides, or elevations, affected by new construction, and must indicate all dimensions including height. Where there is an existing structure, the affected exterior elevation(s) must show the relationship of proposed changes to the existing structure. This shall be done with separate before and after drawings, which use the same scale. Exposed foundations should also be depicted in the elevations. Particular focus on existing and finished grade will be needed to accurately calculate building height. The elevation drawings should describe the cladding, or finish materials, of both the existing and proposed structures, such as wood clapboard, wood shingles, vinyl siding, etc.</p> <p>Also, the interior and exterior elements of the plan shown should be noted such as bedroom, study, balcony, deck, etc. The drawings must be in sufficient detail so that the Inspector of Buildings can determine that the finished construction is in accordance with the plan stamped and approved by the respective Board.</p>	X	X
<p>Landscaping Plan – Showing the limits of work, existing trees and vegetation, vegetation to be removed, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree.</p> <ul style="list-style-type: none"> For commercial projects, include the proposed erosion control measures. For residential projects, the “dimensional site plan” and “landscaping” may be combined into one (1) plan if all required information can be clearly shown. 	X	X
<p>Demolition Description – All applications shall include a written description of all demolition which will take place should the application be approved.</p>	X	X
<p>Photometric Plan – Required if the project is zoned B1, B2, B3 or I and proposes the addition of five (5) or more outdoor parking spaces with outdoor lighting. Must be prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP) or a Massachusetts-licensed Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect. Plan must include the following:</p> <ul style="list-style-type: none"> Location and limits of the canopy or outdoor display area Location and height of all canopy lighting for service stations and service station/mini-marts and all pole, building or ground-mounted lighting fixtures for an outdoor display area at a vehicle sale, rental and ancillary service establishment; and A photometric diagram showing predicted maintained lighting levels produced by the proposed lighting fixture facilities. 	X	

* For the purposes of site plan review, multifamily projects (three or more units) are considered commercial.

	Commercial Project*	Residential Project
Time and Cost Statement - Written statement indicating the estimated time/costs required to complete the proposed project and any and all phases thereof.	X	
Summary - Indicate, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with the Zoning By-Law.	X	
Drainage Calculations - Calculations provided by a registered professional engineer. Storm drainage design shall conform to the Town's Subdivision Rules & Regulations.	X	
Development Impact Statement - May be required by the reviewing board (in the case of a special permit request), in accordance with Section 5.6.2.0 of the Zoning By-Laws.	X	
Traffic Impact Report - May be required by the reviewing board. Include existing traffic volume, composition, peak hour levels, and existing street capacities, estimated daily traffic generation, composition, peak hour levels, and directional flow resulting from the proposed development, proposed methods to mitigate the estimated traffic impact, and the methodology and sources used to derive existing data and estimations.	X	
Discussion on the Effects of Long-Term Sea Level Rise - For developments located in the CFAOD , provide a discussion on how the effects of long-term sea level rise and storm surge on the proposed project will be mitigated. Include calculations showing the projected sea level rise over a 50-year period, what temporary and permanent measures are proposed to minimize flood damage, and any adverse or beneficial effects these measures may have on adjacent properties.	X	X

* For the purposes of site plan review, multifamily projects (three or more units) are considered commercial.

2.3 WAIVER OF COMPLIANCE

In accordance with section 5.4.7.0 of the Zoning By-Laws, the SPSPGA may waive any of the plan requirements set forth, if the SPSPGA determines that the project involves relatively simple development plans or the plan requirement is not necessary to adequately review and decide the petition before it. A Waiver of Compliance request must be submitted in writing by the Applicant, along with a fee of \$300 (separate from any site plan review application fees).

2.4 OTHER REQUIRED INFORMATION

An Applicant who holds any relevant permits previously issued, must have the permit(s) available for review by the respective Board at the hearing. Such permits include any issued by the Planning Board, Conservation Commission with respect to the actual application, and prior decisions of the ZBA, Building Inspector, or courts regarding the property.

Depending on the scope of the project, other reviewing agencies (Board of Health, Building Inspector, Town Engineer, Fire Department, Police Department, and Conservation Commission) may request additional information or plans (see section "3. Site Plan Review Procedure" part iii). The Applicant is advised to meet with these agencies prior to the site plan review and provide these additional materials to the reviewing Board prior to the site plan review meeting.

During the course of the hearing, the reviewing Board may determine that it needs to be provided with additional information, in which case the hearing will be continued to a later date.

2.5 OPTIONAL INFORMATION

All other optional written materials in support of an application shall be provided to the applicable Board at least two (2) weeks in advance of the first scheduled review date. If all required copies of such material are provided, then the material will be delivered to members of the respective Board with other hearing information. Failure to timely provide such materials may result in continuance of the hearing.

2.6 FAST FOOD AND RESTAURANT APPLICATIONS

Fast food and restaurant applications must include in both the application and the advertisement, the proposed hours of operation (closing and opening) and both the current and the proposed seating number if applicable. If any seating is outside the premises, that must also be described. The general type of food operation (for example, pizza, seafood, Chinese) should be described in both the application and the advertisement. The Applicant shall be required to provide the respective Board with detailed plans and specifications of all cooking equipment, ventilation and odor-control systems, and the decibel levels for any externally installed machinery. HVAC shall include ventilation for cooking equipment. For drive-throughs, a sound engineer report is requested when the proposed hours of operation are prior to 7am and after 9pm. These requirements are in addition to and not instead of other application and advertisement requirements.

2.7 PROCESSING

All applications shall be processed through the Building Department office at Swampscott Town Hall. The personnel at that office, in coordination with the Secretary to the ZBA and Secretary to the Planning Board, will schedule the date and time of the hearing.

Upon stamped approval from the Building Department, the Applicant must take the applications to the Town Clerk to complete the filing. The Applicant will deliver all required copies of the application along with application fees to the Town Clerk. The filing of the application with the Town Clerk constitutes the filing of the application for legal purposes and for the purposes of calculating pertinent time periods.

Applications must be stamped in at least twenty-one (21) days prior to the next scheduled reviewing Board meeting in order to be considered for that upcoming agenda.

The SPSPGA shall not take final action on a site plan special permit until the earlier of (i) thirty-five (35) days after the filing of the application, or (ii) receipt by the SPSPGA of written reports from the agencies listed in section "3. Site Plan Review Procedure" part iii.

Once the application has been received by the Town Clerk, the Applicant shall also provide PDF versions of all materials and plans to the Town Planner.

2.8 FEES

Pursuant to section 5.2.4.0 of the Zoning By-Laws, the fees for zoning applications shall be as follows:

- (i) For Residential Applications:
\$400 (Up to three (3) dwelling units)
\$400 + \$50/dwelling unit (four (4) or more dwelling units)
- (ii) For Commercial Applications:
\$400 for first 1,000 sq. ft. gross building area (as proposed) + \$50/each additional 1,000 sq ft proposed gross (or portion thereof)
- (iii) Advertising Fee (special permit applications):
Applications for site plan special permit require additional \$50 for advertising, as a separate check.
- (iv) Exemption:
There shall be no fee if the Applicant is the Town of Swampscott or any Department or Agency thereof.
- (v) Waiver of Compliance:
See also section “2.3 Waiver of Compliance”; \$300.
- (vi) Peer Review Fees:
See also section “1.5 Peer Review” for other fees that may apply to a project, though will not be collected by the Town.

The fees shall be paid by check payable to the “Town of Swampscott” and shall be delivered with the application to the Town Clerk.

2.9 PUBLIC NOTIFICATION

For Site Plan Special Permits, the Secretary to the ZBA or Secretary to the Planning Board shall review the text proposed and prepared by the Applicant or his attorney (within the application form) for the required public notice. The Town shall arrange for the publication of the required public notices in the Lynn Daily Item or any other newspaper of general circulation in the Town. (Notice must be published in two successive weeks, with the first publication to be not less than fourteen (14) days before the date of the hearing, per MGL Chapter 40A Section 11.)

Also for Site Plan Special Permits, the Secretary to the ZBA or Secretary to the Planning Board shall put together the abutters list and mailing labels. This Secretary shall then mail, by postage prepaid, the public notice to the abutters at least seventeen (17) days (fourteen plus three days for mailing) prior to the date of the public hearing. For projects within 300 feet of a neighboring community, it is the responsibility of the Applicant to obtain a certified abutters list and mailing labels from the neighboring community.

For Administrative Site Plan Reviews, the application will be listed as an agenda item within the meeting notice of the Planning Board at least 48 hours prior to the meeting review.

The notice/agenda will be posted in Town Hall as well as on the Town's website calendar.

The Applicant is notified that the requirements of proper notice are ultimately the Applicant's responsibility and the Applicant should review and confirm the "abutters list" and notice for any errors.

Once an application has been advertised for its public hearing, the submitted plan shall not be changed, altered, or revised in any way, except to the extent that the respective Board may initiate, or the Board at the Applicant's request may allow (following a public hearing).

3. SITE PLAN REVIEW PROCEDURE

- (i) A pre-application informational meeting with the Town Planner prior to formal submission of a site plan application is recommended. The purpose of this consultation is (a) to review the requirements and criteria for site plan review and (b) address any questions in order to give the Applicant comments in advance of submitting the site plan application. Comments provided by the Town Planner do not substitute for review by any of the boards and are purely information and may not be relied upon. It is also advisable that the Applicant obtain advice from a land use lawyer.
- (ii) Applicant shall submit the site plan application to the Building Department for verification of completeness. For filing purposes, the application is deemed to be complete only when all of the required items and appropriate number of copies are stamped "Received" by the Building Department. The reviewing board shall determine whether an application is complete at the review meeting. If the Applicant wishes to request that the reviewing board waive any submittal requirements (pursuant to section 5.4.7.0 of the Zoning By-Laws), such request shall be in writing and incorporated into the site plan application in order to be deemed complete (see section "2.3 Waiver of Compliance").
- (iii) Upon verification that the site plan application is complete, the Applicant shall file the application with the Town Clerk.

Subsequently, the Town Planner shall submit a copy of the submitted application materials to the following agencies for their review:

- a. Board of Health
- b. Building Inspector
- c. Town Engineer
- d. Fire Department
- e. Police Department
- f. Conservation Commission
- g. Historical Commission (if building/structure is 75 years or old per Swampscott General Bylaws)
- h. Planning Board (if the ZBA is the Site Plan Special Permit granting authority)

At this time, the Town Planner shall request a signature from each agency (FORM F: Site Plan Application Checklist & Confirmation Form) as well as a copy of the Site Plan Review Comment Form (FORM E). The Town Planner shall then submit the completed FORM F to the relevant review board, prior to or during the first meeting of the relevant review board for the application.

- (iv) Boards, Departments, and Commissions shall transmit comments and recommendations (via FORM E) to the Town Planner within fourteen (14) days of the Town Clerk's stamp on the site plan review application. Failure to transmit comments and recommendations will be deemed "no comment." No decision shall be made by the SPSPGA until comments and recommendations are returned or fourteen (14) days have elapsed following the receipt of a complete site plan review application by the Town Clerk. Note that the SPSPGA may not take final action until they have received these comments or thirty-five (35) days have elapsed from the filing date (see section "2.7 Processing").

- (v) It is expected that the Planning Board or ZBA, as the case may be, will hold a public meeting/hearing within sixty-five (65) days of the Town Clerk's date stamp. The Board shall have the discretion for scheduling the public hearing based on its then-existing agenda. The sixty-five (65) day period begins the first business day following the Town Clerk's date stamp.
- (vi) During the course of the hearing, the Planning Board or ZBA, as the case may be, may determine that it needs to be provided with additional information, in which case the hearing shall be continued to a later date with no prejudice to the Applicant.
- (vii) The decision shall be upon the majority vote (three of five) for an administrative site plan review or super majority vote (four of five) for a site plan special permit and shall be in writing. The Planning Board or ZBA, as the case may be, shall give due consideration to the public meeting comments and the report of the relevant Town agencies, if applicable.

4. PUBLIC MEETING

A public meeting is required for all new administrative site plan reviews through the Planning Board. It is required that complete site plan applications be submitted a minimum of twenty one (21) days before a regularly scheduled public meeting.

Failure of the Planning Board to take action upon an Administrative Site Plan Review application within sixty-five (65) days of the Town Clerk's date stamp (receipt of a complete application) shall be deemed approval of said application.

Note: The first business day after the Town Clerk's date stamp marks the first day of the process period (65 days).

5. EXTENSIONS OF REVIEW PROCESS

The Applicant may request, and the review board may grant by majority vote, an extension of the time limits set forth herein (continuance). The review board may also request an extension during a public meeting/hearing, and grant by majority vote. The period within which the review board shall take final action may be extended for a defined period by written agreement between the review board and the Applicant.

6. REVIEW BOARD DECISION

The final written decision for an Administrative Site Plan Review shall consist of either:

- (i) Approval of the site plan;
- (ii) Approval of the site plan with reasonable conditions; or
- (iii) Denial of the site plan if the application is so deficient that it may not be amended to comply with the Zoning By-Law.

The final written decision for a Site Plan Special Permit shall consist of either:

- (i) Approval of the site plan provided that the project meets all of the necessary sections of the Zoning By-Law;
- (ii) Approval of the site plan, subject to reasonable conditions, modifications and restrictions necessary to ensure compliance with appropriate sections of the Zoning By-Law; or
- (iii) Denial of a site plan the either: (a) does not furnish adequate information required by the Zoning By-Law to adequately review the project or (b) a determination that the project does not meet one or more regulated aspect(s) of the Zoning By-Law and that this deficiency is so intractable that it cannot be amended or reasonably conditioned.

All decisions shall be filed by the respective Board with the Town Clerk and the Board, and notice of it shall be sent to all persons entitled thereto. By state law, there is a twenty (20) day legal appeal period from any special permit decision. The Applicant will receive from the Town Clerk a certified copy of the written decision. The Applicant is responsible thereafter for recording it at the Essex County Registry of Deeds in Salem.

No building permit or certificate of occupancy shall be issued by the Building Inspector without the written approval of the site plan by the applicable review board, unless sixty-five (65) days have lapsed from the date of the submittal of the site plan without final action by the applicable review board. Building permits also may not be issued until the Inspector of Buildings has received from the Applicant a receipt from the Registry of Deeds of the recorded decision.

6.1 APPEALS OF BOARD DECISIONS

Any person aggrieved by the decision of the SPSPGA may appeal the decision to the Superior Court or to the Land Court by bringing an action within twenty (20) days after the decision of the Board has been filed with the Town Clerk.

6.2 EXTENSIONS OF SPECIAL PERMITS

After a site plan special permit is granted by the SPSPGA, the approved construction must start, or commence, within twelve (12) months of the Board's written decision having been filed by the Town Clerk.