

TOWN OF FREETOWN, MASSACHUSETTS

RULES & REGULATIONS OF THE PLANNING BOARD AS
SITE PLAN REVIEW AUTHORITY



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AS SITE PLAN REVIEW AUTHORITY**

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SECTION I. GENERAL PROVISIONS

A. PURPOSE AND AUTHORITY

These Rules and Regulations are adopted by the Planning Board, hereinafter called the Board, as the Site Plan Review Authority (SPRA) provided in the Protective Bylaws of the Town of Freetown for the purpose of establishing uniform procedures for the granting of Site Plan approval.

B. ADOPTION AND AMENDMENT

These Rules and Regulations may be adopted and from time to time amended by majority vote of those members present, provided such adoption or amendment is submitted in writing at a meeting of the Board and action thereon taken at a posted public meeting.

C. EFFECTIVE DATE

These Rules and Regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements such as:

Date of adoption:

Date filed with the Town Clerk:

Amendments - dates of adoption:

Amendments - dates filed with Town Clerk, etc.

D. APPLICANT (Petitioner)

An application for a Site Plan Review may be brought by a property owner, agent or prospective purchaser. The property owner shall sign the application, or provide a notarized letter documenting that the person filing the application is authorized by the owner to do so.

E. PRE-APPLICATION REVIEW

The Planning Board may hold pre-application conferences at any regular or special meeting of the Board. Preliminary plans may be submitted for discussion purposes and to assist in the identification of the nature of information necessary to meet the requirements of the Site Plan Review Bylaw and the Site Plan Review Rules and Regulations.

F. FEES

The site plan review application filing fee is \$500.00; \$100.00 for a minor site plan review; and \$100.00 for a modification to a previously approved site plan. Any expenses for professional consultant review and advertisement as deemed necessary by the Planning Board are considered additional costs and shall be borne by the applicant.

1. When reviewing an application for, or when conducting inspections in relation to, an application for site plan review, the Board may determine that the assistance of outside consultants is warranted due, for instance and without limitation, to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the special permit application. The Board may require that an Applicant deposit a lump sum in order to retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Board may require additional deposits.

2. In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, planners, lawyers, urban designers or other appropriate professionals, who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, standards and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.

3. Funds received by the Board pursuant to this section shall be deposited with the Treasurer, who shall establish a special account for this purpose, consistent with the terms and provisions of G.L. c. 44, §53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant. Accrued interest may also be spent for this purpose. Failure of an applicant to pay a review fee shall be grounds for denial of the application. Alternatively, approval of the application may be conditioned upon payment of any outstanding review fees.

4. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest upon request. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

5. Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within 20 days after the Board has mailed or hand-delivered notice to the applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

SECTION II. APPLICATIONS FOR SITE PLAN REVIEW

A. COMPLETENESS OF APPLICATION

The applicant must submit a properly executed FORM SPR, which shall be furnished by the Planning Board's designee upon request. All information indicated on the form shall be supplied by the applicant in the manner prescribed (fully and correctly). Before the Planning Board may act on an application filed pursuant to these Rules and Regulations, the Board shall first determine whether the submitted application is complete and properly submitted. In order for an application to be considered a proper submittal, the provisions of the filing requirements, submission requirements, the Form SPR, the contents requirements and fee requirements shall be fulfilled. These requirements are outlined in Section I and Section II.

The Planning Board's designee shall endeavor to furnish a determination of completeness on a submitted site plan review application within seven (7) days of receipt or as soon thereafter as practicable. If an application is determined not to be a complete submittal, the applicant will be notified in writing of which required items are missing. A determination that an application is a complete submittal shall be filed with the Town Clerk within seven (7) days of the Planning Board's designee making said determination.

8. PLANS AND OTHER PERTINENT INFORMATION

1. General

For the purpose of furnishing sufficient information upon which to base a decision of the Board, the petitioner shall submit twelve (12) paper copies and one digital copy of the site plans and pertinent calculations to the Planning Board.

2. Date of Submission

An application shall be considered submitted on the date a complete application is filed with the Town Clerk. A copy of the complete application shall be submitted to the Planning Board by the applicant upon submission to the Clerk.

3. Plan Contents

Site plans shall be submitted on twenty-four by thirty-six inch (24" x 36") sheets including a three quarter inch (3/4") border. The applicant shall also submit the plan in digital (PDF) form. All such plans shall be prepared by a Registered Land Surveyor and/or a Registered Professional Engineer. The plan shall be oriented to true or magnetic north and identified by date and name of the petitioners and contain such other information as the Board may request. The plans shall be at a scale of one inch (1") equals forty feet (40'), or such other scale as the Planning Board may accept to show details clearly and adequately, and shall include plans and profiles of each individual street at a scale of one inch (1") equals forty feet (40') horizontal and one inch (1") equals four feet (4') vertical. All elevations shall refer to the U.S.G.S. Datum. All plans shall be accompanied by a sheet showing the entire permit area boundaries, adjacent streets, dimensions of the lots, and streets and assessor lot numbers. A mylar and two (2) copies of the final approved plan shall be submitted for signatures in a form appropriate for recording in the Registry of Deeds. One (1) copy shall be retained by the Planning Board. The Site plan shall contain the following information:

- a. A title, appearing in the lower right corner of the plan, showing the name of the project, if any; the date; scale; the names and addresses of the applicant, designer, engineer and surveyor who made the plan.
- b. North point indicating true or magnetic, benchmark, and boundaries of the project.
- c. Location and ownership of all abutting property owners as shown on the most recent tax list including all abutting land owned by the applicant not presently under consideration. Sufficient data to enable the Planning Board to relate the proposed plan to any adjoining land. Such data shall include the lines of proposed ways and lots and approximate grades, and other details as the Board may reasonably require beyond the property lines with a minimum of fifty feet (50').
- d. Major features of the land, such as existing waterways, wetlands, swamps, and water bodies, natural drainage courses, wall fences, buildings, large trees, wooded areas, outcroppings and ditches which exist on or near the site at the time of survey.
- e. Location of existing buildings, plan of proposed buildings, structures, all existing and proposed utilities, off-street parking areas including handicap parking, loading areas, driveway openings, driveways, service areas, other open areas, and refuse and other waste disposal areas. The basement and first floor elevations of all existing buildings adjacent to the property. The basement and first floor elevations, height, use, and floor area in square feet of all existing and proposed building(s) on the property. The location, type of surface and type of screening of rubbish collection areas and type of container(s). The Planning Board requires a stockade or other suitable fence around all dumpster locations.

- f. Location of all permanent monuments properly identified as to whether existing or propose d.
- g. Location, names and present widths of streets or private ways bounding, approaching or within reasonable proximity of the project.
- h. Indication of all easements, covenants or restrictions applying to the land and their purposes, whether or not within the project boundaries, including any decision on appeal or any variances or exceptions made by the Zoning Board of Appeals applicable to the land or any building thereon.
- i. If the property that comprises the project or any part or boundary thereof has been examined, approved, and confirmed by the Massachusetts Land Court, such information shall be noted on the plan with case numbers and other pertinent references to Land Court Procedure, and the same requirement shall apply to any adjoining parcels of land of the applicant.
- j. Suitable space to record the action of the Planning Board and the signatures of the five (5) members of the Planning Board.
- k. Registry of Deeds block on all sheets.
- l. Existing profiles of the exterior lines drawn in fine black line, dotted for left and dashed for right side, and proposed profile of the finished center-line drawn in bold black solid line of proposed streets at a horizontal scale of one inch (1") equals forty feet (40'), or such other scales acceptable to the Planning Board. At least two (2) benchmarks are to be shown on plans and profiles, and existing and proposed grade elevations at every fifty foot (50') station and every twenty-five foot (25') station within vertical curves. All existing and proposed intersections, sidewalks and probable location of driveways on lots that abut intersections, shall be shown with all proposed grade elevations calculated. Gradient shall be shown by figures expressed in percent.
- m. Existing intermediate and proposed topography at two feet (2') contour intervals including the one hundred (100) year flood plain per the Flood Insurance Rate Maps and/or on-site survey.
- n. Size and location of existing and proposed water supply mains and their appurtenances, hydrants, sewer pipes and their appurtenances and/or sewage disposal systems including estimated water and sewer usage calculations, storm drains and their appurtenances, and easements pertinent thereto, and dimensions of gutters, including data on borings and percolation tests made, and method of carrying water to the nearest watercourse or easements for drainage as needed, whether or not within the project boundaries. Plans and profiles required for all drainage and sewer systems proposed.

If surface water drains will discharge onto adjacent existing streets or onto adjacent properties not owned by the applicant, the applicant shall clearly indicate what course the discharge shall take, and shall present to the Board evidence from the Highway Surveyor, the Engineer to the Board or the owner of adjacent property that such discharge is satisfactory and permitted by public or private ownership of adjacent street or property.

- o. Drainage design. Approval of a Site Plan Review application may be denied until the Planning Board is assured that either the proposed project will not result in significant increases in the rate and volume of stormwater runoff over natural or existing conditions or that adequate provisions will be taken to maintain the volume and rate of runoff at its existing level. The objective of this regulation is to maintain the integrity of natural drainage patterns in order to provide adequate stormwater drainage, prevent flooding and avoid alteration of existing stream channels.
 - i. A drainage plan shall be prepared by a Registered Professional Engineer showing existing and proposed streets, lots, two foot (2') contours, and other pertinent data; the drainage limits and acreage of the area tributary to each storm water inlet and culvert; location and type of inlets proposed; and location, size, length, invert elevations slope of proposed drains and culverts, structural details of inlets, manholes, pipe, headwalls, and all other drainage structures required to complete the plan shall be attached. (The grading plan may be used provided that it includes all the information required here.)
 - ii. Standards for drainage design shall be the same as those required for any subdivision.
- p. Availability of public sewer service, access to trunk lines, capacity of the trunk lines and available increase of flow. Also profiles showing rates of grade of sewer, proposed sewers to be designed and constructed at such slopes as to prevent deposition of solids and to avoid scouring velocity. See Subdivision Rules and Regulations for design standards.
- q. Location and species of proposed street trees and location of trees to be retained will be determined in the field by the Highway Surveyor. On the south and west side of streets, deciduous trees only may be planted.
- r. Cross sections typical of sidewalks to be constructed as per the Subdivision Rules and Regulations. Parking lots to be one and one half inch (1 1/2") Type 1-1 top bituminous concrete over two and one half inch (2 1/2") Type 1-1 binder bituminous concrete over twelve inches (12") of bank run gravel conforming to Massachusetts Highway Spec. Ml.03.0 Type b over a suitable sub-base.
- s. In tabular form as follows for each sheet of the project plan as submitted.
 - i. The total area of the project.
 - ii. The total area of lots included on each sheet.
 - iii. The total of areas dedicated for street purposes, drainage, sewer or utility easements on each sheet.
 - iv. The total of areas reserved for parks, schools, and other public use.
- t. Noted on the plan in a conspicuous place that "The Contractor shall give seven (7) days' notice to pertinent Town Departments before commencing work in the field."
- u. A locus map at one inch (1") equals two thousand feet (2,000') scale.
- v. Zoning classification of the property and the location of the zoning district lines if the property lies in one or more zoning classifications, or abuts a different zoning district. The required existing and proposed zoning requirements (areas, setbacks, etc.) including parking regulations shall be shown in tabular form.

- w. The required buffer zones existing and proposed as determined by the Board.
- x. Site design must be in complete conformance with the Americans with Disabilities Act and the Massachusetts Architectural Access Board.

4. Impact Statements

The impact statement(s) shall describe potential impacts of the proposed development, compare them to the impacts of uses which are or can be made of the site without a requirement for site plan review, identify all significant positive or adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. The following elements may be required by the planning board in order to approve a site plan application:

- a. *Traffic Impact Assessment* describing the impact of the proposed development on the roads and intersections in the immediate vicinity of the proposed development. The Traffic Impact Assessment shall include, but not be limited to: analyses that demonstrate that the projected daily and peak-hour traffic generation can be handled by the existing infrastructure; demonstration that adequate lines of sight are provided; accommodations that allow for safe and efficient bicyclist and pedestrians usage; and requirements for emergency and delivery vehicles are included.
- b. *Environmental Impact Assessment* describing the impact of the proposed development on the general topography, vegetation, wildlife, scenic and historical features, and open space within the site and on any off-site areas. The Environmental Impact Statement shall include, but not be limited to: analyses of stormwater impacts; ground water needs; measures to reduce flooding, erosion, and sedimentation; and impacts to air quality.
- c. *Community Impact Assessment* describing the impact of the proposed development on all applicable town services including, but not limited to: schools, sewer service, water systems, parks, and emergency response. In addition, the Community Impact Assessment shall include, but not be limited to: an evaluation of the relationship of proposed structures to the existing nearby structures in terms of character and intensity of use (e.g., scale, materials, color, door and window size and locations, setbacks, and roof lines); and of the configuration of proposed structures, parking areas, and open space with respect to neighboring properties.
- d. *Parking Impact Assessment* describing the impact of the parking demand of the proposed development on the existing roadway infrastructure and the off-site neighborhood. The Parking Impact Assessment shall include, but not be limited to: an analysis of parking demand using a 9'x18' standard parking space, description of off-site areas likely to be affected by the proposed development; and, a demonstration that access for emergency vehicles will be provided to the principal structure.
- e. *Noise Impact Assessment* describing the impact of the proposed development on the adjacent properties and surrounding neighborhood. The Noise Impact Assessment shall include, but not be limited to: an identification of all internal and external sound generating equipment and the expected noise level; the site hours of operation; and proposed soundproofing measures or noise reduction strategies.

5. Impact Plans

The Impact Plans are plans that show how the project design will prevent potentially obtrusive and offensive aspects of the project from leaving the site. Impact Plans are required for any Large-Scale Ground-Mounted Solar Photovoltaic Installations.

- a. *Sound Emission Plans* designed to not allow any sound above ambient levels to leave the site.
- b. *Light Emission Plans* designed to not allow any light to leave the site.
- c. *Visual Impact Plans* designed to block views of the interior of the site from abutting properties and streets.

C. DESIGN STANDARDS

1. Landscape

Landscape design should give preference to the maintenance of existing healthy trees and groundcover. In addition, it should give preference to indigenous species and should enhance the wildlife habitat value of the site. The development of large lawn areas should be minimized and 'green', low impact landscaping and stormwater practices are strongly encouraged. Street trees should be planted on each side of public and private ways, driveways, or other ways as determined by the Board.

Exposed storage areas, machinery, HVAC equipment, service areas, dumpsters, truck loading areas, utility buildings and structures should be screened from view from adjacent properties and streets by dense vegetation, fences, walls, or earthen berms. Such fencing shall be no less than the height of the dumpster provided. Loading areas should be screened from pedestrian ways, parking areas, public streets, and main entry points to the structure.

Where an industrial or commercial building abuts residentially zone property or land used for residential purposes, the Board may require additional measures to minimize disturbance to residential areas.

2. Circulation

Vehicular circulation should be designed to provide for safe and efficient movement of all users. Vehicular and pedestrian circulation layout should be designed to reduce traffic hazards to all users both on and off the site. Internal site circulation should be designed to minimize through traffic movement, conflict points, and excessive speed.

Ingress and egress points, commensurate with safety, should be kept to a minimum along major abutting streets. A minimum amount of space should be devoted to streets and streets should be constructed to adhere to topography.

Sidewalks should ordinarily be provided along streets used for pedestrian access to schools, parks and shopping. When possible, sidewalks should be separated from the roadway edge by a vegetated border area of at least five (5) feet to increase pedestrian safety. Sidewalk ramps for handicapped accessibility

should be provided at all curb cuts and crossing locations and should be designed per the American with Disabilities Act and the Massachusetts Architectural Access Board.

3. Surface Water Drainage

The site plan should demonstrate either that the proposed project will not result in significant increase in the rate and volume of stormwater runoff over natural or existing conditions, or that adequate provisions will be taken to maintain the volume and rate of runoff at its natural or existing level.

The use of non-structural, Low Impact Development (LID) techniques such as open drainage systems, grass swales and multiple shallow detention basins is encouraged where practical. Increases in surface runoff should be recharged on site by being diverted to vegetated surfaces for infiltration, or through the use of detention ponds. All drainage structures should be maintained on a regular basis.

The site plan review application should include elements found in the Massachusetts Department of Environmental Protection (MassDEP) Stormwater Handbook Volume 2, Chapter 2: Stormwater Best Management Practices. All site plans should conform to the drainage and runoff control requirements specified in the Town of Freetown's Rules and Regulations Governing the Subdivision of Land.

4. Building Location & Design

Buildings and associated structures should to the extent possible be located to protect and preserve unique natural areas, scenic vistas, wetlands, wetlands buffers, rare and endangered plant species, rare or endangered animal habitat, historic features, and floodplain areas. Buildings should be located to preserve and complement natural, historic and scenic areas, and to reduce the visual impact of the buildings from adjacent properties.

A building's mass, style and composition should respond to the surrounding area without contrasts in scale or character. Entrances should meet universal access requirements (Americans with Disabilities Act and Massachusetts Architectural Access Board design standards). All proposed building materials should be durable, of good quality, attractive and blend with the materials of neighboring buildings. Rooflines should be distinguishable and should have elements such as cornice treatments or caps, roof overhangs, stepped parapets or similar design elements.

5. Parking

Parking should complement the site circulation and access points to maximize the convenience, vehicular safety, and pedestrian movement within the site. Pedestrian movement from the sidewalk or the cars to the building entrance should be pleasant and safe on clearly defined pathways and crosswalks. Every effort should be made to minimize the visual impact of parking by arrangement of the building and landscaping.

Parking areas should be screened from view from adjacent properties and streets by dense vegetation, fences, walls, or earthen berms. Loading areas should be screened from pedestrian ways, parking areas, public streets, and main entry points to the structure.

All site plans should conform to the off-street parking and loading requirements specified in the Town of Freetown's Protective Zoning Bylaw.

6. Lighting

Lighting should be designed to minimize glare onto streets, public ways, the sky, or onto adjacent properties while highlighting key building features, signage, and entrances. Lighting should promote safety and surveillance while complementing the building's architecture and site landscaping.

Light fixtures should be the "cut-off" variety, projecting all light down towards the ground. Light levels should be sufficient to ensure easy vision and a sense of security within parking areas. Metal halide lamps, solar-powered lights, and energy-efficient lighting, such as LEDs should be used wherever possible.

7. Noise

Noise production should not unreasonably interfere with the use and enjoyment of the adjacent or nearby properties. Noise reduction strategies should be designed to limit the noise impact onto others due to the proposed use and activities anticipated to occur on the site.

D. **Large-Scale Ground-Mounted Solar Photovoltaic Installations Design Standards**

1. Natural Buffer

An area of 50 feet from the property line must be kept in a natural, unimpaired state, with the exception of the access road to the array.

2. Pollinator Blend

At least 50% of the seed mix must be pollinator blends with native Massachusetts plants.

SECTION III. PUBLIC HEARING

A. NOTICE

If a public hearing is required on the Site Plan Review application, the public hearing shall be held within sixty-five (65) days after the complete application is submitted. Notice of the hearing shall include:

1. The name of the applicant
2. A description of the area or premises including street address, if any, or other adequate identification of the location
3. The date, time, and place of the hearing
4. The subject matter of the hearing
5. The nature of action or relief requested if any

No hearing shall be held on an election, primary or caucus in the Town of Freetown. Notice of such hearing shall be given by publication in a newspaper of general circulation in the Town of Freetown once in each of two (2) successive weeks, the first publication being not less than fourteen (14) days before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the hearing. Notice shall be sent by mail, by the petitioner, postage prepaid, to the abutters, owners of land directly opposite on any public or private street or way, and abutters within three-hundred (300') feet of the property line of the petitioner, and the planning board of every abutting city or town. Proof of notification will be given to the Board at the time of the public hearing.

B. REPRESENTATION AT HEARING

An applicant, or a party in interest, may appear on his own behalf or may be represented by an authorized agent or attorney (by notarized document). In the absence of an appearance on behalf of an applicant, without cause, the Planning Board may deny an application or decide on the basis of available information otherwise received.

SECTION IV. DISPOSITION OF APPLICATION

A. REFERRAL TO OTHER AGENCIES

Copies of the application, together with such information as the Board deems appropriate, shall be submitted by the Planning Board for review and recommendations to the Board of Health, the Building Inspector, the Highway Surveyor, the Chief of Police, the Fire Chief, the Conservation Commission, and to such other municipal boards and officials as the Board determines within seven (7) days of the filing of the application. Failure of any such department, board, agency, or official to make recommendations within twenty-one (21) days of receipt of such notice shall be deemed lack of opposition thereto.

B. APPROVAL

1. Time Limit

Special Permit Required

Applications for Site Plan Review approval that also require a Special Permit shall be approved, approved with conditions, or disapproved within ninety (90) days after the closing date of the public hearing.

Special Permit not Required

Applications for Site Plan Review approval that do not require a Special Permit shall, if practicable, be approved, approved with conditions, or disapproved within ninety (90) days of the date such application was filed with the Town Clerk, provided that failure to do so shall not result in constructive

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approval of the application.

2. Voting

The decision of the Planning Board shall require a simple majority vote of the members present and shall be in writing. The record shall show the vote of each member or indicate if absent or failing to vote. The Board shall state clearly the reasons for the action, and shall make specific findings required by any specific local bylaws including:

- a. Whether the use is in harmony with the general purpose and intent of the specific local by-law;
- b. Whether the use complies with the provisions set forth in the local specific bylaw;
- c. Whether, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which it is located, the following goals are achieved:
 - i. Protection of neighboring properties against harmful effects of uses on the development site;
 - ii. Convenient and safe access for fire-fighting and all emergency rescue vehicles within the development site and in relation to adjacent streets;
 - iii. Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;
 - iv. Satisfactory methods for drainage of surface water to and from the development site;
 - v. Satisfactory methods for storage, handling and disposal of sewage, refuse and other wastes resulting from the normal operations of the establishment(s) on the development site;
 - vi. Convenience and safety of off-street loading and unloading of vehicles, goods products, materials, and equipment incidental to the normal operation of the establishment(s) on the development site; and
 - vii. Harmonious relationship to the terrain and to existing buildings in the vicinity of the development site.

C. WITHDRAWAL OF APPLICATION

An application may be withdrawn without prejudice by an applicant by notice in writing to the Planning Board at any time. Such withdrawal shall not constitute unfavorable action. No expenditures by the Board in relation to the application (advertising, etc.) will be returned to the applicant.

D. CERTIFICATION

The Planning Board shall file a copy of its decision with the Town Clerk. It shall retain a copy of the decision in its own files. A certified copy of the decision shall be mailed to the applicant and owner if other than the applicant.

The Site Plan Review decision shall contain:

1. Name of the owner;
2. An identification of the land affected;
3. A description of how the project does or does not comply with the statutory requirements for approval and related findings;
4. Certification that copies of the decision have been filed with the Planning Board and the Town Clerk;

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5. Specification that appeals, if any, shall be made in accordance with Appeals section of these Rules and Regulations.

E. APPEALS

Persons aggrieved by a site plan review decision may appeal to the board of appeals pursuant to the provisions of M.G.L. c. 40A, § 15: thereafter a person aggrieved by the board of appeals decision may appeal to a court having jurisdiction in accordance with the provisions of M.G.L. c. 40A, § 17.

F. LAPSE OF SITEPLAN APPROVAL

No Site Plan shall be authorized by the Board without the express condition that it will lapse if substantial use under the permit is not commenced within two (2) years from the date of final action by the Board except for good cause or the final determination of an appeal.

SECTION V. OTHER PROVISIONS

A. PERFORMANCE GUARANTEE

As a condition to a Site Plan approval, the applicant may be required by the Planning Board to post a bond or cash surety to secure any improvements or operational conditions of approval prior to the issuance of a Building Permit.

B. SEVERABILITY OF PROVISIONS

The provisions of these Rules and Regulations are severable. If any provision of these Rules and Regulations is held invalid, the other provisions shall not be affected thereby. If the application of these Rules and Regulations, or any of its provisions to any person or circumstances is held invalid the application of these Rules and Regulations and their provisions to other persons and circumstances shall not be affected thereby.

C. WAIVER OF STRICT COMPLIANCE

Strict compliance with these rules and regulations may be waived by the Board provided that the Board determines that such waivers are deemed to serve the public interest. Applicants are encouraged to discuss all waiver requests with the Planning Board or the Planning Board's designee prior to or during the Pre-Application Review. The applicant must submit all written waiver requests at the time of the initial submittal (12 copies). Any request for a waiver from these Rules and Regulations must clearly identify the provision or provisions from which relief is sought. In addition, such request must be accompanied by a statement setting forth the reason or reasons why, in the Applicant's opinion, the granting of such a waiver would be in the public interest and consistent with the intent and purpose of the Site Plan Review Bylaw and the Site Plan Review Rules and Regulations. The Planning Board shall issue written waiver request approval or denial decisions and said decisions shall be incorporated in any final site plan approval or disapproval decision.



DRAFT

