

**Town Of Bolton Planning Board  
Special Permit Rules and Regulations  
Limited Business and Business Districts**

**1.1 AUTHORITY**

These Special Permit Rules and Regulations are adopted by the Bolton Planning Board as authorized by M.G.L. Chapter 40A and the Bolton Zoning Bylaw as amended.

**1.2 PURPOSE**

The purpose of these Rules and Regulations is to set forth uniform rules and procedures applicable to any Application for uses identified in section 2.3.4 of the Bolton Zoning Bylaw requiring a Special Permit from the Planning Board; and to ensure submission of adequate materials to assist the Planning Board with its duties under the Bylaw.

**1.3 DEFINITIONS**

In these Rules the following terms shall have the following meanings:

- 1.3.1 **Agent:** Agent or consultant appointed by the board, serving as the Board's representative to advise the board on matters relating to these rules and regulations.
- 1.3.2 **Applicant:** Any person or such person's authorized representative who files an Application for a Special Permit for land uses in the Limited Business District or Business District under the Bylaw.
- 1.3.3 **Application:** All Plans, Forms, Reports, Studies or other documents which are submitted to the Board under these Rules by an Applicant.
- 1.3.4 **Bylaw:** The Zoning Bylaw of the Town of Bolton, as amended.
- 1.3.5 **Parties in Interest:** The Applicant; abutters; owners of land directly opposite on any private or public street or way; and abutters to the abutters within five hundred (500) feet of the property line of the Applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; the Bolton Planning Board; and the Planning Board of every abutting city or town.
- 1.3.6 **Permit:** A Special Permit under the Zoning Bylaw as amended.
- 1.3.7 **Rules:** The Special Permit Rules and Regulations (hereinafter the Rules) as presented herein and subsequently modified hereafter.

1.3.8 **Site Plan:** Plans and supplementary information as described in these Rules.

1.3.9 **Planning Board:** Bolton Planning Board as designated by and indicated in Section 2.3.4 in the Table of Uses and Section 2.5.5.5 of the Bolton Zoning Bylaw.

1.3.10 **The Zoning Act:** Massachusetts General Laws, Chapter 40A, as amended.

1.3.11 **Town:** the Town of Bolton.

## **1.4 APPLICABILITY**

Any person or entity applying to the Planning Board for a Special Permit or amendment thereto in the Limited Business Zoning District or Business Zoning District under Section 2.3.4 "Table of Uses" or Section 2.3.5.5 "Special Permits For Zoning Uses" of the Zoning Bylaw, whether or not such person is governed by any other federal, state, or local permits, variances, approvals, or programs, shall comply with the provisions of these Rules.

## **1.5 WAIVER OF RULES**

1.5.1 **Waiver from Compliance** – Strict compliance with these Rules may be waived when, in the opinion of the Planning Board, such waiver is in the public interest and is consistent with the intent and purpose of the Bylaw and these Rules.

1.5.2 **Request for Waiver from Rules** – If a waiver to a filing requirement is being requested, a written request for such waiver shall be made at the time of filing. If an oral request is made at a hearing or meeting, it shall be reduced to and submitted as a written request by the Applicant. Any request from an Applicant for a waiver from these Rules must be submitted, in writing, to the Planning Board prior to the close of the public hearing. Any request for a waiver from these Rules must clearly identify the provision or provisions of these Rules from which relief is sought and 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 Bylaw and these Rules.

1.5.3 **Denial of Waiver Request** – If a requested waiver is not granted, the time for the submission of the required material or information shall be set by the Planning Board and said material or information shall be received prior to the close of the public hearing. If an extension of the time for conducting the public hearing or rendering a decision is necessary for consideration of this additional material or information, and such extension is not granted by the Applicant upon request of the Planning Board, such refusal may be grounds for denial of the Special Permit.

**1.6 PROVISION OF SECURITY**

The Planning Board may require that security be posted with the Town in such form and amount to secure the satisfactory completion of all or any part of the work authorized by or required under the Special Permit.

**1.7 ADVICE FROM TOWN STAFF**

Any advice, opinion, or information given to the Applicant by a Planning Board member, or by any agency, official, or employee of the Town shall be considered advisory only and not be binding on the Planning Board.

**1.8 AMENDMENTS TO THE RULES**

The Rules may be amended by a majority vote of the Planning Board at or after a public hearing at which such amendment has been discussed.

**1.9 EFFECTIVE DATE OF THE RULES**

These Rules, or any amendment thereto, shall become effective upon vote of the Planning Board following a public hearing and the filing of the same with the Town Clerk.

## **SECTION 2**

### **PRELIMINARY REVIEW**

#### **2.1 PRELIMINARY CONSULTATIONS**

Informal consultations between an Applicant and the Planning Board prior to the filing of an Application with the Planning Board are recommended and can prevent delays in the processing of the final Application. Such consultations shall take place at a properly posted meeting of the Planning Board and shall be run with a quorum of the Planning Board present. Public notification is encouraged but not required for preliminary consultations.

#### **2.2 FORM OF REQUEST**

At least 8 copies of all materials to be reviewed shall be provided to the Planning Board along with a letter requesting such a review and including the name, address, and phone number of a person who may be contacted concerning the review. All correspondence and communication must be sent through the office of the Planning Board.

#### **2.3 SCOPE OF PLANNING BOARD REVIEWS**

The Planning Board will review preliminary materials in an attempt to avoid unnecessary technical deficiencies in the Application to be filed and to promote efficiency in the formal review and hearing process. The Planning Board will not be responsible for assuring the accuracy, correctness or thoroughness of any Application submitted for review. It is the responsibility of the Applicant to assure that any materials submitted to the Planning Board are thorough, complete and accurate.

## **SECTION 3**

### **FILING REQUIREMENTS**

#### **3.1 WHO MAY FILE**

A complete Application for a Special Permit shall be made in writing on the form provided by the Office of the Planning Board. In the case where the Applicant is a person other than the record owner of the property, the Applicant shall be required to submit as part of the Application for a Special Permit written certification executed by the record owner of the property that the Application is submitted with the knowledge and consent of the record owner.

All information required by any form as part of an Application for a Special Permit shall be furnished by the Applicant in the manner prescribed in these Rules and by such form unless a waiver is requested and granted as set forth above.

#### **3.2 SUBMISSION OF APPLICATION**

The Application shall be submitted to the Office of the Bolton Town Clerk during posted business hours. The Applicant may request and shall be entitled to a written receipt for the materials submitted. The date of filing shall be considered the date upon which the Application or notice thereof has been received by the Bolton Town Clerk as required in these Rules.

- 3.2.1 **Number of Copies of Application** – Twelve (12) standard size copies, no larger than 30" X 42", of the Application (including plan sheets) and twelve (12) reduced size copies of the plan sheets only shall be required at the time of submission of an Application. An electronic copy of the application in Adobe Acrobat .pdf format may also be required by the Board.

#### **3.3 FILING FEE**

Any Application for a Special Permit shall include a fee to cover the expenses incurred by the Town in reviewing the Application, excluding the cost of plan review by a consultant(s) for the Town. The fee is not refundable. The fee shall be submitted in check form and made payable to "Town of Bolton". Refer to the Planning Board File Fee Schedule for the amount.

- 3.3.1 **Additional Review Fee Deposits** – So that the Planning Board may make the findings required under the Bylaw and ensure that public safety will be protected, the Planning Board may hire outside traffic, engineering, legal or planning consultants to review an Application. To cover the cost of these reviews, a review fee deposit may also be required of an Applicant at the time of submission or at any appropriate time in the review process. As the scope of the study and review will vary according to the size or a particular project, the Applicant is hereby strongly advised to consult the Planning Board concerning

the scope and cost of any such studies during the preliminary review. Failure to do so could result in serious delays in the processing of an Application. The amount of the fee deposit will reflect the anticipated consultant fee/s plus 10%. Note that some projects may require additional fees to cover further study if significant impacts or problems are found in the initial review. Any amount of the deposits remaining after the issuance of building permits for the proposed construction plus any remaining accrued interest will be repaid to the Applicant or the Applicant's successor in interest.

- 3.3.2 **Appeal from the Selection of the Consultants** – The Applicant may appeal the selection of an outside review consultant to the Board of Selectmen. If no decision is made by the Board of Selectmen within thirty days following the filing of an appeal, the selection of the Planning Board stands. 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 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 Applicant must specify the specific grounds which the Applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements.
- 3.3.3 **Amendments** – To amend or alter an existing Limited Business or Business District special permit, the owner of the property shall submit a site plan or other materials to the Planning Board to describe the proposed changes or amendments. An Amendment to a Special Permit deemed substantial by a majority vote of the Planning Board shall require the filing of a new Application. Amendments to a Special Permit deemed insubstantial by a majority vote of the Planning Board shall not require the filing of a new Application. Such changes, whether deemed by the Board to be substantial or not, shall be filed with the Town Clerk, and recorded by the applicant at the Worcester District Registry of Deeds.
- 3.3.4 **Legal Notices** – The Applicant shall submit a proposed copy of the Notice of Public Hearing to be published to advertise the public hearing.

## SECTION 4

### CONTENTS OF AN APPLICATION

**NOTE:** An Application for a Special Permit which lacks information or is incomplete in any manner may be denied or seriously delayed. It is the responsibility of the Applicant to assure the accuracy, thoroughness and completeness of all information submitted to the Planning Board as part of an Application for a Special Permit.

#### 4.1 APPLICATION FORM

Any Special Permit for which an Applicant seeks approval shall be submitted on the proper forms and shall be accompanied by a Site Plan prepared by a registered engineer and land surveyor drawn at a scale of 1" = 40' or such other as the Planning Board may require to show details clearly and adequately. The Site Plan must be plainly marked "Site Plan" and shall be clearly and legibly drawn in dark lines on a white background, or similar medium acceptable for filing with the Registry of Deeds or Land Court to fully detail and explain the intentions of the Applicant.

4.1.1 **Numbering System** – All sheets on plans should include a reasonable numbering system with an appropriate title block, signature block, legend, and a North arrow.

4.1.2 **Required Components of a Site Plan** – More information than the minimum required herein may be shown on a Site Plan provided such information is reasonably necessary for the proper evaluation of the Site Plan. Any Special Permit submitted for consideration shall include a Site Plan which consists of the following minimum components:

- a) A Development Impact Statement (required components below);
- b) A Locus Plan;
- c) A Site Composite Plan;
- d) A Construction Detail Plan;
- e) A Landscape Plan;
- f) A Building Elevation Plan;
- g) A Floor Plan;
- h) A Sedimentation and Erosion Control Plan.

A site plan shall also be submitted to the Board of Selectmen to conduct its review under Zoning Bylaw 2.5.5.6 "Site Plan Approval Process".

#### **4.2 CERTIFIED ABUTTERS LIST**

A list of abutters and abutters to abutters that are Parties in Interest as defined in these Rules, taken from the most recent tax list of the Town and certified by the Assessors' Office shall be included in the submission of the Application. The Applicant shall pay any charges required by the Assessors' Office for the list.

#### **4.3 SUBSTANTIATION OF FACTS**

The Application shall be responsible for factually supporting all points relied upon in the Application concerning the proposal, including without limitation references for methodologies used in design calculations.

#### **4.4 OTHER PERMITS AND VARIANCES**

The Applicant shall list on the Application and provide copies of all variances, permits, and other special permits previously issued by Town boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work. This list should include but not be limited to any permits from the Board of Health, the Conservation Commission, the Board of Appeals, the Planning Board, the Board of Selectmen, the State Department of Public Works, the Army Corps of Engineers, and the State Department of Environmental Protection; and certificates issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Policy Act. Failure to submit this information could result in delays or a determination the application is incomplete.

**NOTE:** If any other special permits are required, the Applicant is hereby strongly advised to make the applications for such additional permits concurrently with this Application.

#### **4.5 RECORDED PLANS**

A copy of the most recently recorded plan/s for the lot/s on which the work will take place bearing the book number/s, page number/s, and date/s of recording/s or registration/s of recorded plans.

#### **4.6 DEVELOPMENT IMPACT STATEMENT**

The Applicant shall prepare a Development Impact Statement with the following components:

##### **4.6.1 Use Description**

The Application shall contain a detailed description of the proposed use. In the case where the Applicant cannot commit to a particular use at the time that an Application for a Special Permit is made, the Applicant must provide the Planning Board with a description of the possible uses to which the facility may be put as allowed by the Town of Bolton Zoning Bylaw. The application shall also contain the proposed square footage of lot coverage as defined by the bylaw; total



coverage of impermeable surfaces (including building and parking area); and proposed area of open space, if applicable.

#### **4.6.2 Drainage Calculations**

Storm drainage runoff calculations used for stormwater drainage system design must be prepared by, and display the seal of, a Registered Professional Engineer. These calculations should be based on a recognized standard method (usually the TR-20, TR- 55, Rational Formula or Soil Conservation Service Method as dictated by the site). The calculations must contain a written summary explaining the rationale of the design so that a lay person can understand the basic design approach and its validity to the site in question. Furthermore, the calculations should be fully documented including copies of charts or other reference sources to make review easier. The use of computer-generated reports is acceptable; however, the source of the software should be identified. These calculations shall be used to determine all drainage structures and pile sizes. The drainage system will be reviewed by the Planning Board and/or its consultant to ensure that the system design will not result in serious flood hazards during the 100-year storm.

#### **4.6.3 Earth Removal Calculations**

Calculations for determining the volume of earth to be removed from the site shall be required in applications. Calculations of the amount of earth removal shall be prepared by, and show the seal of, a Registered Professional Engineer. The calculations shall show the total amount of earth materials to be removed from the site. A removal schedule may be required when earth materials are intended to be removed from the site. This schedule, if required, must state the size of the trucks or other vehicles to be used, their gross vehicle weight, the estimated number of trips per day for each removal vehicle, the travel routes to be taken by removal vehicles as well as their approximate hours of operation and the clearing procedures used.

#### **4.6.4 Traffic Study**

A traffic impact study of a scope specified by the Planning Board will be required in all Applications where the proposed uses will, in the opinion of the Planning Board, be likely to produce an additional 100 ADT (Average Daily Traffic) per weekday, based on the most recent edition of the Institute of Transportation Engineers' publication Trip Generation. If the proposed uses are not listed in said publication, the Planning Board may approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed uses. If no such listed use is sufficiently similar, a detailed traffic generation estimate, along with the methodology used, prepared by a Registered Professional Engineer experienced and qualified in traffic engineering, shall be submitted. To avoid lengthy delays in the processing of an Application, consultations should be made by the Applicant with the Planning Board during

the Preliminary Review to determine whether an Application is likely to require a traffic study. A traffic study shall examine the following:

*EXISTING TRAFFIC CONDITIONS* including roadway geometries, traffic volumes, safety, delays, and levels of service for streets and intersections (whether in Bolton or another town) affected by the proposed uses.

*FUTURE TRAFFIC CONDITIONS* including trip generation, trip distribution, volume to capacity ratios, and levels of service for existing streets and intersections (whether in Bolton or another Town) affected by the proposed project at the time of anticipated completion and 5 years beyond anticipated completion, taking into consideration the impacts of previously-approved projects and projects pending approval on the same streets. Approach and departure route assignments shall be based on existing traffic patterns, minimum time paths, or market studies. Trip generation for the proposed uses shall be based on average statistics from Trip Generation as above, and must include both A.M. and P.M. peak hours, weekend peaks, if applicable, as well as average total daily trips. Any anticipated reduction in trips due to special characteristics of the proposed uses must be fully explained and documented. Sight distances for turning movements to and from the site must be analyzed using AASHTO standards. The adequacy of vehicular queuing storage at the site entrances shall also be demonstrated. The impact of any planned phasing of the project shall be discussed.

*MITIGATION MEASURES* that could be taken to reduce the impacts of the proposed uses and their estimated cost. These should include demand management strategies such as staggered employee work schedules and promotion of car-pooling, as well as capacity enhancements such as added turn lanes, signalization, and improvements to intersections and medians. The potential for driveway connections to neighboring lots must be explored. The study should take into account those improvements that are being planned by the Town or the State.

The Applicant shall provide twelve (12) copies of the Traffic Impact Study for review by the Planning Board and/or its consultants.

#### **4.7 PLANS**

Plans shall be legibly drawn to fully detail and explain the intentions of the Applicant. Site Plans shall be drawn at a standard scale (1" = 40'). All plans shall include a reasonable numbering system with an appropriate title block, North arrow, signature block and legend identifying any representative symbols used on the sheet in question.

- 4.7.1 **Locus Plan** – A Locus Plan shall be submitted as part of any Site Plan. The Locus Plan shall be drawn at a scale of 1" = 500' or that determined by the Board to adequately show the characteristics of the surrounding properties. Major streets, buildings, brooks, streams, rivers or other landmarks should be shown on the Locus Plan with sufficient clarity to be easily discernible.
- 4.7.2 **Design Certification** – Each plan sheet shall show the seal of a Registered Professional Engineer or a Registered Land Surveyor, or both, as appropriate to the data.
- 4.7.3 **Site Composite Plan** – The Site Composite Plan shall include the following minimum information presented as prescribed below:
- 4.7.3.1 **Legends** – Each Plan sheet shall contain a legend identifying any representative symbols used on the plan sheet in question.
- 4.7.3.2 **General Site Characteristics** – The following general site characteristics shall be shown on the Site Composite Plan:
- a) All lot lines and boundaries of the site, with ownership of abutting properties indicated, and all setbacks for buildings, structures, parking, or loading facilities. All required setback lines shall be dimensioned on the plan so that compliance with zoning regulations may be clearly discerned.
  - b) All Zoning District boundaries, including the boundaries of the Flood Plain and Groundwater Protection Districts, if applicable, shall be shown in their proper location on the site.
  - c) Any special site features including, but not limited to, stone walls, fences, historic structures, buildings, or existing trails and/or cart paths.
- 4.7.3.3 **Natural Site Characteristics** – The following natural site characteristics shall be shown on the Site Composite Plan:
- a) Site features such as, but not limited to, wetlands, water bodies and waterways, drainage courses, historic sites, ledge outcroppings, trees with a diameter measured one foot from the ground exceeding 18 inches, etc. All wetlands and wetland buffer area boundaries must be shown on the plan. Wetlands are defined as those areas subject to the provisions of either the "Wetlands Protection Act", M.G.L. Chapter 131, Section 40, or the Town of Bolton Wetlands Bylaw.

- b) Each area intended to be used as open space on the site shall be clearly identified on the plan and the square footage of each such area shall be shown.
- c) All existing and proposed topography on the site shall be shown at two (2) foot intervals. Topography shall be referenced to the National Geodetic Vertical Datum with the location and elevation of the benchmark plus at least two additional benchmarks on the site.

4.7.3.4 **Site Improvements** – Any improvements intended to be constructed shall be shown on the Site Composite Plan.

- a) The outline or footprint of any existing or proposed building or structure must be shown and identified. The final disposition of any existing building or structure, whether it shall remain, be removed or altered, shall be noted. The location of any existing or proposed signs must be shown, and, if existing, their final disposition must be noted.
- b) The location and type of water services to serve the facility shall be shown. If the site is to utilize an on-site well, its proposed location must be shown in addition to its setbacks from any building, structure or sewage disposal system.
- c) All fire protection systems on the site or off the site but within 500' of the principal building on the site shall be shown. If no fire protection systems are located within 500' of the principal building on the site, then a note shall appear clearly explaining how the Applicant will provide fire protection to the site.
- d) The location and type of any other utilities all of which shall be located underground including, but not limited to, electric or gas services, shall be shown.

4.7.3.5 **Waste Disposal Facilities** – The following waste disposal facilities shall be shown on the Site Composite Plan:

- a) The type and location of any solid waste disposal facilities must be shown and identified.
- b) The disposal of all wastes must comply with Town, State or Federal regulations or law.

- c) The proposed location (shown as a perimeter outline of the system) of any onsite sewage disposal systems, including any required reserve areas, must be shown on the plan. The type of sewage disposal system may be identified by a simple notation (for example, "proposed location of on-site sewage disposal system and proposed reserve area"). Actual design and construction of the sewage disposal system shall not be shown on a Site Composite Plan. However, the proposed location of the sewer main running from the building to the sewage disposal system must be shown. If a sewage system other than an on-site sewage disposal system is to be used, the location of any sewer main to be installed on the property in question must be shown. In addition, if the proposed development includes the construction of a sewage treatment plant, then the location of the plant and the sewer main to serve the facility in question must be shown.

4.7.3.6 **Erosion and Sedimentation Controls** – The Site Composite Plan shall show any devices or note any techniques which will be used to control erosion and sedimentation on the site during and after construction of the development.

## 4.8 CONSTRUCTION DETAIL PLAN

- 4.8.1 **Detail of Structures** – A typical detail of a proposed catch basin, manhole, headwall, walkway, subdrain, waterway, leaching basin, drainage pond, or other similar structures, if any, shall be shown.
- 4.8.2 **Landscaping Details** – A typical detail of a tree well, tree planting, or specialty planting area, if applicable, shall be shown.
- 4.8.3 **Parking Details** – A typical detail of each type of parking space to be used on the site showing the dimensions of the proposed parking spaces shall be shown so that compliance with the standards of "Parking" of the Bylaw are met.
- 4.8.4 **Tabulations** – Building coverage, open space, and drainage tabulations shall be shown.
- 4.8.5 **Outdoor Lighting Details** – A detail of the lighting proposed shall be shown.

## 4.9 LANDSCAPE PLAN

At a minimum, the Landscape Plan shall include the following information presented as prescribed below:

- 4.9.1 **Legend** – A legend identifying the symbols used to represent any landscape elements including, but not limited to, trees, shrubs, ground covers or other landscape element, or outdoor lighting facility shall be shown on the Landscape Plan sheet. The botanical and common name of each species, its height (at planting), its spread (at maturity) and the quantity intended to be planted shall be listed in an orderly fashion as part of the legend.
- 4.9.2 **Certifications** – The Landscape Plan must be prepared by and show the seal of a Registered Professional Landscape Architect certified to practice in the Commonwealth of Massachusetts.
- 4.9.3 **Landscape Buffers** – The location, depth, width and length of proposed buffer area(s) shall be shown and dimensioned. A detailed planting plan of the buffer shall be shown and shall include an opaque screen. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation.
- 4.9.3.1 **Plantings** – Plantings shall be done in accordance with proper landscaping practices. Shade trees shall be of a species tolerant to the climatic conditions of Bolton, and be at least two inch caliper (measured four feet above grade level). All trees shall be staked and mulched. Shrubs shall be a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of Bolton, and be at least eighteen inches in height at time of planting.
- 4.9.3.2 **Maintenance of Plantings** – Trees, shrubs, grass and ground cover which die or become diseased shall be replaced within two years of planting or anytime during the life of the Special Permit, whichever is longer.
- 4.9.3.3 **Retention of Existing Vegetation** – Wherever possible, the above requirements shall be met by retention of existing vegetation.
- 4.9.4 **Land Contours** – Existing and proposed contours of the land shall be shown at two (2) foot intervals. Such topography shall be referenced to the National Geodetic Vertical Datum.
- 4.9.5 **Site Features** – The boundaries of the site, the outline or footprint of all buildings, structures, parking areas, walkways, or loading facilities shall be shown. Areas of proposed “open space” shall be shown and identified on the Landscape Plan. In addition, any special site features such as historical features; ponds, streams, brooks or other water bodies; or large ledge outcroppings or boulders shall be shown.

- 4.9.6 **Limits of Work** – Any area where existing conditions may reasonably be expected to be disturbed during construction shall be shown and identified on the Landscape Plan.
- 4.9.7 **Perimeter of Trees** – The perimeter of any existing wooded areas on the site shall be shown. Existing wooded areas intended for preservation shall be noted.
- 4.9.8 **Outdoor Lighting Structures** - The location of any existing or proposed outdoor lighting facilities shall be shown. Appropriate symbols shall be used to identify whether such facilities are intended for functional or decorative purposes.

#### **4.10 BUILDING ELEVATION PLAN**

At a minimum the Building Elevation Plan shall include the following information presented as prescribed below:

- 4.10.1 **Scale of Building Elevation Plan** – The Building Elevation Plan shall be drawn at an appropriate scale generally not less than  $1/8'' = 1'$ .
- 4.10.2 **Certifications** – The Building Elevation Plan must be prepared by and display the seal of a Registered Professional Architect or a Registered Professional Engineer certified to practice in the Commonwealth of Massachusetts.
- 4.10.3 **Elevations** – The front, sides and rear elevations and the maximum height of each building shall be shown.

#### **4.11 FLOOR PLAN**

A Floor Plan must be shown for each floor of each building whether such building is existing or proposed so that compliance with the minimum parking regulation of the Bylaw may be discerned. At a minimum the Floor Plan shall include the following information presented as prescribed below:

- 4.11.1 **Scale of Floor Plan** – The Floor Plan shall be drawn at a scale of  $1/4'' = 1'$  or such other scale as the Planning Board may require to show details clearly and adequately.
- 4.11.2 **Certifications** – The Floor Plan must be prepared by and display the seal of a Registered Professional Architect or by a Registered Professional Engineer certified to practice in the Commonwealth of Massachusetts.
- 4.11.3 **Floor Plan** – Each Floor Plan must identify the proposed use or uses to be conducted on the floor in question. Each Floor Plan must be dimensioned to show the net floor area.

#### **4.12 ADDITIONAL INFORMATION TO BE FURNISHED TO THE PLANNING BOARD**

The Planning Board is empowered to require information in addition to that specifically required by the Bylaw or by these Rules. The Planning Board will require the Applicant to supply additional information if it finds that such information is necessary to properly act upon the Application in question. No submission of additional information or amendments will be accepted after the filing and prior to the commencement of the public hearing, or subsequent to its close, without the Planning Board's permission.

#### **4.13 RECOMMENDATIONS FROM OTHER BOARDS, COMMITTEES, AND AGENCIES**

Upon receipt of an Application hereunder, the Planning Board shall transmit forthwith a copy of the Application to the:

Building Inspector	Board of Selectmen*
Board of Appeals	Fire Department
Board of Health	Police Department
Engineering Consultant	Department of Public Works
Conservation Commission	Historical Commission

\* Note that the Board of Selectmen shall receive a copy of the site plan from the applicant pursuant to Zoning Bylaw 2.5.5.6 "Site Plan Approval Process".



## **SECTION 5**

### **PUBLIC HEARING**

#### **5.1 PUBLIC HEARING NOTICE**

- 5.1.1 **Publication of Notice** – Upon receipt of an Application for a Special Permit, the Planning Board shall set the date, time, and place of the public hearing, which shall be held within 65 days of the Application filing date. Notice of the hearing shall be published by the Applicant in a newspaper of general circulation once in each of two (2) successive weeks. The first such publication shall appear not less than fourteen (14) days before the day of the hearing and a copy of the notice shall be posted in a conspicuous place in the Town Hall for a period of not less than fourteen (14) days before the date of the hearing. The day of the hearing shall not be counted as one of the required fourteen days.

#### **5.2 APPEARANCE OF APPLICANT AT PUBLIC HEARING**

An Applicant may appear on his own behalf or be represented by an agent or attorney. In the absence of an appearance, the Planning Board may decide the matter using the information it has received. In any case, the Planning Board shall not be responsible for presenting any Site Plan to the public at a public hearing or any other forum. It is the responsibility of the Applicant to present the Site Plan to the Planning Board and to the public. Failure to appear at a public hearing could seriously jeopardize the success of an Application.

#### **5.3 PUBLIC HEARING PROCEDURE**

The objective of a public hearing is to provide Parties in Interest and other town boards and committees the opportunity to have their opinion heard by a public decision-making body. In order to encourage informed opinions, it is important that the Plan in question be presented to the public in a thorough but concise manner. These Regulations are intended to promote a well-prepared, brief, and accurate presentation of the Application for a Special Permit, thereby providing the public with maximum opportunity to speak on issues of concern.

- 5.3.1 **Time of Hearing** – No hearing shall begin before the time published in the notice.
- 5.3.2 **Public Invited** – Any party whether entitled to notice thereof or not may appear in person or by agent or by attorney.
- 5.3.3 **Close of Hearing** – When all the facts have been presented and all persons wishing to speak on the Application have been heard, the Chairman will close the hearing on majority vote of the Board and inform the Applicant and others

present that the Applicant will be notified by mail of the Planning Board's decision.

- 5.3.4 **New Evidence Limitation** – In no case shall the Planning Board allow new evidence to be admitted after the close of the public hearing. However, written information may be submitted after the close of the public hearing provided the information does not contain new evidence and is intended to clarify existing factual evidence. In any case the Planning Board shall have the right to refuse admission or receipt of information which in the Planning Board's opinion constitutes new evidence or which is otherwise deemed inappropriate.

#### **5.4 PUBLIC HEARING PRESENTATION**

The Planning Board highly recommends that the Applicant present the Site Plan to the Planning Board and to the public in the following manner:

- 5.4.1 **Locus of Site** – The Applicant should locate the site under consideration by using a locus map which clearly shows the location of the site within the Town and the applicable neighborhood. The site, major roads or other landmarks should be clearly discernible to all persons in the hearing room by the use of color or other graphic techniques.
- 5.4.2 **Application and Plan Summary** – The Applicant should then summarize the Application for all those present so that they may have a full understanding of the purpose and scope of the project. During the summary the Applicant shall limit the discussion to facts which are part of the Application submitted. New facts not contained in the Application must be clearly identified as new facts by the Applicant. Often it is the presentation of new facts at a public hearing which will necessitate that the hearing be continued so that the Planning Board and the public may have the opportunity to evaluate the new facts. Therefore, in order to prevent the delays caused by a continued hearing, the Applicant should strive to assure that the initial Application is complete.
- 5.4.3 **Plan Analysis** – The Applicant should then provide a brief but thorough analysis of the Plan, clearly identifying all major Plan components, and shall explain their respective roles in the Plan so that lay persons in the hearing room can clearly understand the scope and probable impacts of the proposal. Any plans or other graphic representations of the proposal used during the presentation should be clearly drawn and easily discernible to all those present. It is highly recommended that major Plan components such as buildings, parking facilities, drainage and utility systems, site landscaping, major topographic changes such as hills or valleys, and major site features such as ponds, streams, and stone walls be shown in color so that these Plan elements can be identified by persons in the hearing room. It is also recommended that major Plan components be

shown on separate Plan sheets if it is deemed that their display will be confusing if shown on only one Plan sheet.

- 5.4.4 **Time Limit of Presentation** – The Chairman shall allow any Applicant a maximum of 30 minutes to complete the presentation. If the Applicant feels that the presentation requires more time, the Applicant may request that the Chairman allow an additional specified amount of time for the presentation. Such a request must be made prior to the beginning of the presentation; otherwise the presentation shall not exceed the required 30 minutes allowed for the presentation. The Chairman may upon his own motion allow the Applicant to exceed the time limitation imposed herein when the Chairman deems such an action appropriate under the circumstances. Upon completion of the presentation, the Applicant shall advise the Chairman that the presentation has been completed.

## **5.5 CONTINUANCE OF PUBLIC HEARING**

The Planning Board may continue a public hearing if the Planning Board finds that the continuance is necessary or appropriate to allow the Applicant or others to provide additional information. In such a case, the Chairman shall announce to those present, prior to the adjournment of the hearing, the specific date, time, and place where the hearing will be continued, and the subject matter to be discussed at the continued hearing. The Planning Board may require the Applicant to re-advertise or re-notify Parties in Interest, where it deems such an action to be in the public interest.

- 5.5.1 **Extension** – The period within which final action shall be taken may be extended for a defined period by written agreement between the Planning Board and the Applicant and a copy is filed with the Town Clerk.

## **SECTION 6**

### **PLANNING BOARD ACTION**

#### **6.1 VOTING REQUIREMENTS**

- 6.1.1 **Hearing Attendance Required for Action** – Only those members of the Planning Board who were in attendance at the public hearing may vote on the Permit in question.
- 6.1.2 **Record of Proceedings** – The Planning Board shall cause to be made a detailed record of its proceedings, showing the vote of the Planning Board and whether a member of the Planning Board was absent or failed to vote, and setting forth clearly the reason or reasons for its decision and for its other official actions. Copies of such record shall be filed at the Planning Board Office and the Office of the Town Clerk.

#### **6.2 WITHDRAWAL OF APPLICATION BEFORE PUBLIC HEARING NOTICE**

Any Application for a Special Permit may be withdrawn without prejudice by the applicant or its authorized representative by filing a letter to the Bolton Town Clerk and Planning Board. Said letter must be received by the Planning Board prior to the first publication of notice of the public hearing. No refund of fees will be provided if an Application is withdrawn.

#### **6.3 WITHDRAWAL OF APPLICATION AFTER PUBLIC HEARING NOTICE**

Withdrawal of any Application after the first publication of notice for the public hearing requires Planning Board approval. The request for such approval shall be made in a letter to the Bolton Town Clerk and Planning Board. Requests made in any other manner than that prescribed herein shall not be considered for approval by the Planning Board.

#### **6.4 DECISION OF THE BOARD**

The concurring vote of four (4) of the five (5) members of the Planning Board shall be necessary to decide in favor of granting a Special Permit. Only those members of the Planning Board who were in attendance at the public hearing may vote on the Application in question. A failure of the Planning Board to achieve the required vote shall be deemed a denial of such Permit.

- 6.4.1 **Time Period for Deliberation** – The Board will act on each Application for a Special Permit within ninety (90) days from the date of the close of the public hearing, unless such Application has been withdrawn from consideration.

6.4.2 **Notice of Decision** – The Board shall file three full copies of its Decision to the Town Clerk within fourteen (14) days of its vote. One such copy shall be sent to the property owner and the Applicant if other than the property owner.

6.4.3 **Recording of Decision** – Recording a Special Permit Decision is required by the Zoning Act and the Bylaw. The Applicant will be responsible for recording the full copy of the Special Permit Decision in the Worcester District Registry of Deeds and for paying any required recording fees. A copy of the recorded Decision, certified by the Registry of Deeds, must be submitted to the Planning Board and the Building Inspector. No construction shall be allowed to begin at the site which was the subject of the Decision until evidence, satisfactory to the Building Inspector, has been presented to the Building Inspector that the Permit in question has been duly recorded as required herein.

6.4.4 **Submission of Final Approved Plans** – Five copies of the final plans as approved for construction by the Planning Board shall be submitted to the Building Inspector prior to the issuance of a building permit.

## **6.5 APPEAL OF DECISION**

Any person aggrieved by a decision of the Planning Board, whether or not previously a party to the proceeding, may appeal such decision in accordance with Section 17 of the Zoning Act.

## **6.6 TIME LIMITATION ON APPROVAL**

In the case where a Special Permit is granted by the Planning Board, all other permits for the execution of the work shall be obtained and substantial use thereof shall be commenced, except for good cause, or construction begun, except for good cause, within two years from the date of filing of the Planning Board's Decision in the Office of the Town Clerk, unless the Planning Board otherwise provides for a different period of time in the Permit. Said time shall not exceed two years.

## **6.7 EXTENSION OF TIME LIMITATION TO BEGIN WORK**

6.7.1 **Extension for Good Cause** – A reasonable extension of said time may be granted by the Planning Board where good cause is shown after a public hearing has been conducted in accordance with the requirements of Section 5 of these Rules on the request for extension. Such extension or extensions shall not exceed two years beyond the original expiration date of the Special Permit.

6.7.2 **Form of Extension Request** – Any request for an extension shall be made in writing to the Planning Board. Such request must be submitted to the Planning Board and a copy thereof to the Town Clerk at least sixty (60) days prior to the date when the Permit is due to lapse. Failure to submit such Application as

prescribed above shall be due cause for the Planning Board to deny the requested time extension.

## **6.8 REPETITIVE APPLICATION**

Section 16 of the Zoning Act stipulates that no Application which has been unfavorably and finally acted upon by the Planning Board shall be acted favorably upon within two years after the date of final unfavorable action unless four members of the Planning Board vote to find that specific and material changes in the conditions upon which the previous unfavorable action was based have occurred and describe such changes in the records of the Planning Board's proceedings, and all but one member of the Planning Board consents to the consideration of the matter. Therefore, any person wishing to re-apply for a Permit within two (2) years from the date when the final and unfavorable action was filed with the Town Clerk must submit a letter to the Bolton Planning Board stating the specific and material changes in the conditions that would warrant reconsideration of the matter.

## **6.9 AMENDING A SPECIAL PERMIT**

A previously granted Special Permit may be amended upon application to the Planning Board or upon the Planning Board's own motion. The Planning Board shall determine whether any request for further alterations to a site constitutes a minor modification and therefore does not require an amendment to the Special Permit.

**6.9.1 Public Hearing** – Unless the original Permit specifically allows certain modifications or alterations without the necessity of a new public hearing, all requests for amendments shall require a new public hearing to be advertised and conducted in accordance with these Rules.

**6.9.2 Applicable Requirements** – All of the requirements applicable to a Special Permit shall be applicable to an amendment to a Special Permit. Because of the variety of amendments which are possible, Applicants are advised to inquire whether they will need to submit any plans, reports or other information in addition to those submitted at the time the original Special Permit was applied for. If any plans, reports or other information is required, then such plans, reports or other information will comply with the requirements set forth in these Rules.

**6.9.3 Application Fee Reduction** – Amendments to an existing Special Permit may take many forms. Some amendments may be quite simple while others could be quite complex. In each case where an amendment to an existing Permit is sought the Applicant may request that the Planning Board reduce the Application fee required by the Planning Board fee schedule. Failure to pay the required

payment in a timely manner may be considered due cause to deny the requested amendment.

**6.10 VALIDITY**

In the event of a conflict between the provisions of these Rules and Regulations and the provisions of the Zoning Act and the Bolton Zoning Bylaw, the provisions of the Zoning Act and the Bolton Zoning Bylaw shall apply.

**6.11 FORMS**

All mentioned forms may be obtained from the Office of the Planning Board.

ADOPTED: August 9, 2006