

Conventions for this draft as follows:

Text that is underlined is proposed for inclusion.

Text that is ~~stricken out~~ is proposed for deletion

A yellow highlighting is also provided to emphasize proposed text changes.

## SECTION 7. ADMINISTRATION

### 7.1 Design and Site Plan Review

*Note: §7.3 was amended by Article 16 at the 2005 Annual Town Meeting.*

#### 7.1.1 Purpose

- a) To maintain the integrity and character of all zoning districts and adjoining zones by insuring that proposed development fulfills the purposes and complies with the requirements of the Belmont Zoning By-Law (“these By-Laws”).
- b) To ensure that development which is subject to this review is planned and designed to minimize impacts on its abutters, the neighborhood, and the environment.
- c) To provide an orderly review procedure where site plans of proposed projects can be approved with reasonable conditions which that will further the purposes of these By-Laws.

#### 7.1.2 Applicability and Waiver

The Planning Board shall hear and decide all petitions for Design and Site Plan Review in accordance with the provisions of this Section 7.3.

- a) Design and Site Plan Review is required for any new building, addition or change in use of a predominantly non-residential building greater than 2,000 2,500 gross square feet gross floor area in any zoning district, ~~or a proposal that results in the need for six~~ requires five (65) or more parking spaces on the lot, ~~or a or if the proposal that~~ reduces the number of on-site parking spaces or changes to the configuration of off-street parking, screening, egress, utilities, drainage or lighting.

For addition or alterations of less than 2,500 gross square feet, the Planning Board may waive any or all of these requirements.

- b) Design and Site Plan Review is not required for those uses which require a Special Permit (for use) from either the Planning Board or the Zoning Board of Appeals. If a Special Permit is required per Section 1.5 of these By-Laws, it shall be obtained prior to the submittal of an application for Design and Site Plan Review.
- c) Upon written request, the Planning Board may waive any or all of these requirements for an addition to or alteration of an existing structure affecting less than 2,000 gross square feet, or a reconstruction or change in use of an existing structure, if it determines that the addition, alteration, reconstruction, or change in

use will not have a significant impact on: vehicular and pedestrian movement within the site and on adjacent streets; public services and infrastructure; environmental, unique and other resources; abutting properties; and community needs.

### 7.1.3 Application Procedures

Each application for Design and Site Plan Review shall be submitted to the Office of Community Development Planning and Building (OCDOPB) during regular business hours and shall contain all of the information noted below. Applicants are encouraged to meet with OCD-OPB staff planners, abutters to the proposal and informally with the Planning Board to discuss the proposal prior to submittal.

- a) Required application materials include the following:
  1. A completed application form and the applicable fees to address the administrative, advertising and review costs of the Town,
  2. An original and thirteen (13) copies of the application package and plans, and
  3. Site information as required in Section 7.3.4 below.
- b) Within ten (10) days of receipt of the application package, the Office of Community Development Planning and Building shall provide copies to the Board of Selectmen, Board of Health, Zoning Board of Appeals, Department of Public Works and the Fire and Police Departments requesting written comments prior to the hearing date. If proposed buildings include new or newly affordable housing units, the OPB shall also provide copies to the Affordable Housing Trust. The application may also be provided to other appropriate boards or committees (the Traffic Advisory Committee, Housing Trust, or Conservation Commission for example). Comments received by OCD-OPB shall be made available to the Applicant upon request prior to the hearing.
- c) The Planning Board shall hold a public hearing within 45 days of OCDOPB receiving the application. Notice of the public hearing shall be placed in a newspaper of general circulation, by posting at Town Hall and the OCD-OPB website at least seven (7) days before the hearing. Notice shall be sent by mail to the Applicant and abutters (within 300 feet) prior to the hearing date.
- d) In reviewing the application, the Planning Board shall review whether the proposal adheres with the provisions of the Zoning By-law, including whether:
  1. The dimensions of the proposed building(s), lot and lot coverage comply with the requirements provided in table form per Section 4 of this By-Law.
  2. The arrangement of parking and loading spaces, internal traffic circulation and traffic controls in relation to the proposed uses of the building(s) and adjacent uses comply with Section 5.1 of this By-Law,
  3. All Signs comply with Section 5.2 of this By-Law.
  4. All Landscaping complies with Section 5.3 of this By-Law.

5. The method to dispose of refuse and other waste if it is not within the structure is defined, and screening of exterior dumpsters or similar trash receptacles complies with Section 5.3 of this By-Law, and
  6. All Environmental Controls comply with Section 5.4 of this By-Law, and
  7. The proposal conforms to any special site plan provisions in applicable overlay or special districts.
- e) The Planning Board may also review:
1. Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage stormwater, sound and sight buffers and screening, and preservation of views, light and air;
  2. Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly; vulnerable populations.
  3. Adequacy of the methods of disposal of refuse and other wastes resulting from the uses permitted on the site;
  4. Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises;
  5. Adequacy of the method of exterior lighting for convenience, safety and security within the site and for protection of neighboring properties, roadways and the night sky;
  6. Relationship of structures and open spaces to the natural landscape, existing buildings, and other community assets in the area;
  7. The project's incorporation of sustainability and resiliency principles; and
  8. Any other subject applicable criteria to be considered during Design and Site Plan Review as set out elsewhere in the By-Law.
- f) For any proposed project involving only the creation of ten or fewer new housing units, a change in use of up to 5,000 gross square feet of floor area, reconstruction of an existing building, or changes to the configuration of off-street parking, screening, egress, utilities, drainage, or lighting, the Planning Board's review should generally focus on the layout of and conditions on the site, and sound and sight buffers and screening, and not on other impacts on nearby properties or any aspect of the site plan which will not change from a prior use.
- g) Within 20 days following the close of the public hearing, the Planning Board shall act on the application. Approval shall require a majority vote of the five (5) members. The associate Planning Board member shall sit on the Board for the purposes of acting on a Design and Site Plan Review application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the

Planning Board or in the event of a vacancy on the Board. This time period may be extended at the request of the Applicant.

*Note: §7.3.3 c) was amended by Article 6 at the 2010 Special Town Meeting.*

- h) As appropriate, the Applicant may also be required to receive an Order of Conditions from the Conservation Commission or approval from the Board of Health prior to the Planning Board acting upon an application.

~~The Design and Site Plan Review application shall be approved provided that all of the requirements of these By-Laws are fulfilled. The Board may attach reasonable conditions to any approval. An approval does not relieve the applicant of the responsibility of obtaining other required approvals and/or permits from local boards, state or federal agencies.~~

~~If the Design and Site Plan Review application does not conform to the requirements of these By-Laws, the Planning Board shall identify these deficiencies in writing and may deny approval. A new application and hearing process will then be required for further consideration of the proposal.~~

- i) Any appeal may be filed with Zoning Board of Appeals (ZBA) in conjunction with an appeal from the denial or grant of a Building Permit for the subject site.
- j) No Building Permit shall be issued to the Applicant (or his/her designee) until the Planning Board has filed its written decision with the Town Clerk or after 20 days has elapsed from the close of the public hearing without a decision being filed.
- k) The Planning Board may establish rules and regulations for Design and Site Plan Review, including rules for the imposition of reasonable fees for the employment of outside consultants pursuant to G.L. c. 44, § 53G, and consistent with this Section 7.3 and the rest of this By-law
- l) Design and Site Plan Review Submittal Application Requirements

#### 7.3.4 Design and Site Plan Submittal Requirements

Each application for Design and Site Plan Review shall include the following information unless, prior to submittal, the Planning Board has determined that certain materials are not germane to the decision being made, and authorizes their omission:

- a) Site plans at a scale of 1"=20' prepared and stamped by a professional engineer (P.E.) or a Registered Professional Land Surveyor (RPLS). (The Board may approve another scale or waive the PE/RPLS requirement in specific circumstances.) The plans shall show
1. all new buildings, additions, adjacent structures
  2. streets, sidewalks and crosswalks
  3. all existing and proposed open spaces

4. Site development details shall include existing and proposed walls, fences, outdoor lighting, street furniture, new paving and ground surface materials.
  5. Points of vehicular and pedestrian access/egress shall be shown.
  6. All utilities, easements or service facilities, insofar as they relate to the project, shall be shown.
  7. Proposed site grading, including existing and proposed grades at property lines shall be shown.
- b) Building elevations or drawings shall be provided at a scale of 1/8" = 1' or other appropriate scale.
- c) A brief narrative describing the proposal ~~and its potential impacts on its abutters and the neighborhood.~~ The narrative should address issues such as the hours of operation, the number of seats for restaurants, clubhouses, or places of public assembly, anticipated number and frequency of events at clubhouses, places of public assembly, or anticipated pupil enrollment and use schedule for schools for profit, number of parking spaces, the square footage of the site and buildings, and potential impacts on open spaces. For multi-family proposals a table with the number, type and size of dwelling units should be ~~discussed~~ provided. The Planning Board may, at its discretion, require an estimate of municipal revenues and costs expected to be generated by the project, including anticipated real estate valuation and public service needs.
- d) The proposed method of stormwater removal accompanied by calculations for a 20-year storm event. All efforts shall be made to meet the most current Department of Environmental Protection Stormwater Management Design Guidelines. A brief ~~narrative describing the applicability or non-~~ applicability statement explaining how the proposed project meets the requirements of the Stormwater Management and Erosion Control Bylaw and, if the Bylaw applies, how the applicant intends to comply. This requirement may be satisfied by demonstrating that the applicant has received a Stormwater Management and Erosion Control Permit in accordance with Section 60-325 of the General Bylaws of the Town of Belmont.

#### 7.1.4 Decision Criteria/Approval Guidelines:

At its discretion, the Planning Board may require the completion of a Development Impact Report pursuant to Section 7.5 of these By-Laws prior to acting on the application. The Applicant may also be required to receive an Order of Conditions from the Conservation Commission and/or approval from the Board of Health prior to the Planning Board acting upon an application.

- a) The Planning Board must grant Design and Site Plan Approval if the proposed project fulfills all requirements of these By-Laws. The following criteria and requirements must be fulfilled:

9. The dimensions of the proposed building(s), lot and lot coverage shall comply with the requirements provided in table form per Section 4 of these By-Laws.

10. The arrangement of parking and loading spaces, internal traffic circulation and traffic controls in relation to the proposed uses of the building(s) and adjacent uses shall comply with Section 5.1 of these By-Laws.
  11. All Signs shall comply with Section 5.2 of these By-Laws.
  1. All Landscaping requirements shall comply with Section 5.3 of these By-Laws.
  2. The method to dispose of refuse and other waste if it is not within the structure shall be defined. Screening of exterior dumpsters or similar trash receptacles shall comply with Section 5.3 of these By-Laws, and
  3. All Environmental Controls shall comply with Section 5.4 of these By-Laws.
- b) The Board may establish reasonable conditions for mitigation or for other regulatory purposes to any Design and Site Plan Approval. The Board may require that some or all of any conditions of Approval be secured by a deposit of money or an Irrevocable Letter of Credit in the Town's favor. This performance guarantee shall bear a reasonable relationship to the expected costs of completing the specified work being secured.
- c) If the Design and Site Plan Review application does not conform to the requirements of these By-Laws, the Planning Board shall either deny the application, or approve the application subject to conditions sufficient to ensure compliance. If the Planning Board denies the application, it shall, at the applicant's request, identify the deficiencies in writing.
- d) Design and Site Plan Review Approval shall lapse if on-site construction is not commenced within two three (23) years from the date of Approval. The Planning Board, in its sole discretion, may extend this date for good cause shown. If the Approval lapses, a new submittal and hearing will be required.
- e) Upon completion of the project, the developers shall submit "as-built" plans to the Office of Community Development Planning and Building for review. Upon acceptance of the plans by Office of Community Development Planning and Building and the Planning Board, the developer may submit a written request for a release of the performance guarantee, as may be applicable. This provision may be waived by the Planning Board in certain circumstances when it is deemed unnecessary based on the scale or scope of the project or when as-built plans specifically will not provide any meaningful new information.
- f) An approval does not relieve the applicant of the responsibility of obtaining other required approvals and/or permits from local boards, state or federal agencies.

#### 7.1.5 Revisions to an Approved Site Plan:

- a) The Applicant, property owner, Building Commissioner or the Planning Board may petition to change or modify a Design and Site Plan Approval based on. This may occur in the event of unforeseen site characteristics, infrastructure or economic problems/issues, or other unexpected circumstances, or other appropriate

circumstances. Any such petition that proposes changes to the approved plan shall include a revised site plan.

- b) OPB shall review each petition and, if it determines that the proposed modification is *de minimis*, shall approve the petition. Otherwise, it shall refer the petition to the Planning Board.
- c) The Planning Board shall review each petition referred to it to determine whether the proposed modification is minor, material, or major. In undertaking such review, the Planning Board may consider the reason for the petition. All proposed changes shall be reviewed and discussed by the Planning Board at a regularly scheduled meeting prior to the initiation of such on the property.
  1. If the Planning Board determines the proposed modification is minor, the Planning Board may approve the changes by majority vote without a public hearing. Minor changes, as determined by the Planning Board, may be approved without a public hearing.
  2. If the Planning Board determines the proposed modification is material but not major, the Planning Board may hold a public hearing. The Planning Board reserves the right to require a new public hearing at the expense of the Applicant.
  3. If the Planning Board determines the proposed modification is major, it may require the applicant to submit a new application for Design and Site Plan Approval. If it determines that a proposed change or modification is major and/or significant.
  4. Upon approving a petition to make a minor or material modification to a Design and Site Plan Approval, the Planning Board shall detail the approved modification in writing and the applicant shall submit a revised site plan consistent with the Planning Board's decision. All approved changes or modifications shall be detailed in writing by the Planning Board. All changes or modifications shall be shown on a revised plan and if approved, shown on the "as-built" plans.

## 7.2 Special Permits

*Note: §7.4 was adopted by Article 17 at the 2005 Annual Town Meeting.*

### 7.2.1 Special Permit Granting Authority

At various places in this By-Law, authority for acting on particular Special Permits is assigned to the Planning Board or the Board of Appeals. Where no Board is specifically designated, the Board of Appeals shall act as the Special Permit Granting Authority (SPGA).

Pursuant to Chapter 40A, Section 9 of the General Laws, the Planning Board shall have an associate member for the purposes of acting on a Special Permit application in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board. Said associate member shall be appointed by the Board of Selectmen.

*Note: §7.4.1 was amended by Article 6 at the 2010 Special Town Meeting.*

### 7.2.2 Applicability

Special Permits are required for

1. Specified expansions, alterations and/or changes to non-conforming structures and uses as defined in Section 1.5. The criteria listed therein shall apply to those petitions.
2. Those uses noted in Section 3.3 and,
3. Where otherwise specifically provided for within these By-Laws.

Where a Special Permit is required to allow a use, no Design and Site Plan Review pursuant to Section 7.3 is necessary from the Planning Board.

### 7.2.3 Special Permit Criteria

The following shall be the basis for decisions on Special Permits, except as may be more specifically provided elsewhere in this By-Law. Special Permits shall be granted only if the Special Permit Granting Authority determines that the proposal's benefits to the Town will outweigh any adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things:

#### Location

1. There shall be adequate provisions for water, sewerage, stormwater drainage for the proposed use and no additional adverse impacts should be created.
2. The site should be able to accommodate the proposed use without substantial environmental impacts, impacts to valuable trees or other natural resources.
3. The site should be able to accommodate the proposed use without substantial impacts on municipal infrastructure and with minimum traffic impacts on abutting residential neighborhoods.

#### Activity Type and Mix

4. Residential proposals should serve housing needs of local residents, broaden the diversity of housing within the Town and/or provide affordable housing opportunities pursuant to Section 6.10 of these By-Laws.

*Note: §7.4.3 b) 1 was amended by Article 26 at the 2003 Annual Town Meeting.*

5. The use should complement the character and the scale of existing buildings/uses/activities in the neighborhood and not create undesirable impacts.
6. The use shall be beneficial to the Town and fulfill a need.

#### Visual Concerns

7. Views from public ways and developed properties should be considerably treated in the site arrangement.
8. The visual impact of parking and service areas should be minimized and should be screened from abutting premises.
9. Departure from the architectural scale of buildings on abutting and nearby premises should be minimized, except where the departure would serve a town purpose.

#### Access

10. Vehicular and pedestrian access/egress should be safe and convenient and shall be designed to minimize impacts on the abutting public ways.
11. Pedestrian and vehicular movement within the site should be safe and convenient, and arranged to minimize impacts on abutters.

#### Process

12. A proposal that has been developed in consultation with municipal staff and those likely to be substantially impacted by it is preferred.
13. Mitigation to ameliorate negative impacts is required.

Special Permit applications for use shall comply with the criteria within Section 7.3.5 Design and Site Plan Review.

At the time of application, the Applicant shall submit documentation regarding each of the above considerations which are germane, including information regarding consultative efforts made with municipal staff, neighborhood groups or other affected parties.

#### 7.2.4 Procedures

It is recommended that the Applicant meet with municipal staff and abutters to the proposal prior to the application being filed.

Each application for Special Permit shall be filed with the Town Clerk. Ten (10) copies of said application and supporting plans or other materials, including one having the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Office of Community Development.

The Office of Community Development shall refer the application to the SPGA and the Planning Board (if not acting as the SPGA), Board of Selectmen, Board of Health, Fire and Police Departments, Department of Public Works and/or other boards or authorities, as appropriate, for technical review and comment. **If proposed buildings include new or newly affordable housing units, the OPB shall also refer the application to the Affordable Housing Trust.** Failure of a department or board to make recommendation within 35 days of receipt of the application shall be deemed a lack of opposition thereto.

The Special Permit Granting Authority shall hold a public hearing within 65 days of the filing of the application and shall render a decision within 90 days from the date the public hearing is closed. The required time limits for a public hearing and for rendering a final decision may be extended by written agreement between the petitioner and the Special Permit Granting Authority. A copy of such agreement shall be filed in the Office of the Town Clerk.

- Failure of the Special Permit Granting Authority to take final action within 90 days from the date of the close of the public hearing or within any extended time, if applicable, shall be deemed to be a grant of the Special Permit subject to the procedures found in MGL, Chapter 40A, Section 9.

#### 7.2.5 Special Permit Limitations

A Special Permit, if granted, shall be subject to any general or specific rules prescribed herein, and may be made subject to appropriate conditions, safeguards, and limitations on time or use. A Special Permit shall lapse within a two-year period or a shorter period if so specified by the Board, not including any time required to pursue or await the determination of an appeal pursuant to MGL, Chapter 40A, Section 17 if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun within the period except for good cause.

## 7.5 Development Impact Report

*Note: §7.5 was adopted under Article 13 at the 2003 Special Town Meeting.*

### 7.5.1 Purpose

The purpose of a Development Impact Report (DIR) is to enable the applicable board and municipal officials to identify the environmental/social/physical and/or infrastructure impacts of the requested activity and to determine if the impacts can be mitigated. The DIR shall identify the methods to be used to mitigate and to minimize adverse impacts on the neighborhood and the Town.

### 7.5.2 Applicability

A DIR may be required by the Planning Board or Zoning Board of Appeals during a review of any application for a special permit or a variance for a non-residential or multi-family structure or use which could have significant, deleterious environmental, physical or social impacts on the neighborhood and/or the Town and its infrastructure. This provision is adopted pursuant to Section 53G, Chapter 44, MGL and as such, the DIR shall be at the expense of the Applicant.

At their discretion, the Planning Board or the Zoning Board of Appeals may require a DIR upon the submittal of any application for a Special Permit, Design and Site Plan Review Approval or a Comprehensive Permit.

If the Applicant is required to file an Environmental Impact Report with the MEPA Unit of the Executive Office of the Environmental Affairs, the Draft or Final Environmental Impact Report may be submitted to fulfill the requirements of this Section. This decision is at the discretion of the Board reviewing the application.

### 7.5.3 Consultant Selection and Requirements

The appropriate Board shall develop a Scope of Work to guide the completion of the DIR. This Scope may be coordinated with other boards and/or professional staff. Upon the completion of the Scope of Work, the Board shall send out a "Request for Proposal" to at least three (3) qualified consulting firms. The Board shall review all responses and choose the optimum proposal.

- 7.5.3.1.1 The selected consultant must have an educational degree in or related to the field at issue, or
- 7.5.3.1.2 Have three or more years of practice in the field at issue, and
- 7.5.3.1.3 Provide suitable references for similar activities in other communities.

The Applicant may appeal the selection of the consultant to the Board of Selectmen if they believe that the selected consultant has a conflict of interest or does not possess the minimum required qualifications. The time required for action on the application is extended pending the appeal. The Selectmen have one (1) month from the date of the appeal to render a decision.

The Applicant shall then be required to make a payment to the Town of Belmont in the exact sum of the proposal selected. This money shall be placed in a separate, interest bearing escrow account administered by the Town Treasurer pursuant to Section 53G, Chapter 44,

MGL. An annual report on such accounts shall be submitted by the Treasurer to the Town Administrator.

#### 7.5.4 Contents of the Scope of Work

The appropriate Board may waive or add to the list of concerns noted below pursuant to the specifics of each application. It is recommended that the Applicant work with the Board to participate in the preparation of the Scope. The contents could include the following:

##### 7.5.4.1 Physical Environment

- 7.5.4.1.1 Provide a description and impact analysis that the development will have on the general topography, vegetation, geologic, scenic and historical features and open space of the site.
- 7.5.4.1.2 Provide a description and impact analysis on properties abutting the site. This analysis may include traffic, lighting, noise, shadowing and emissions impacts.
- 7.5.4.1.3 Identify historic archeological sites, geological, botanical, existing or potential trails and accesses to open space areas and how they will be maintained or enhanced.

##### 7.5.4.2 Surface Water

7.5.4.2.1 Provide a narrative on the following:

- i. the methods and degree to which water is recycled back into the ground. Estimate increase of peak run-off and volume of run-off over a 24-hour period caused by altered surface conditions;
- ii. the maintenance and improvement of the flow and quality of surface waters including Best Management Practices (BMP) to be employed; and,
- iii. methods to prevent flooding onto adjacent properties.

7.5.4.2.2 Describe the location, extent and type of existing water bodies or wetlands on the site and the proposed alterations to such, including both existing and proposed surface drainage characteristics within and adjacent to the site.

##### 7.5.4.3 Erosion Controls

7.5.4.3.1 Describe the erosion control and soil stabilization methods, timing and locations to be used during construction.

- i. approximate the size and location of land to be cleared at any given time and the length of time soil will be exposed;
- ii. identify methods for protecting soil stockpiles; and
- iii. detail any other erosion control issues.

7.5.4.3.2 Evaluate the effectiveness of the proposed soil erosion control methods on the site and on the surrounding areas. Also review the permanent methods to be used to control erosion and sedimentation.

7.5.4.4 Town Services and Infrastructure

7.5.4.4.1 Estimate traffic flow at peak periods employing ITE standards and procedures. Detail the proposed on-site and projected off-site circulation patterns to the project. Detail pedestrian and bicycle movements and any proposed enhancements. Are new traffic controls (re: signals, signage, striping, etc.) or upgrades to existing controls necessary?

7.5.4.4.2 Estimate the effect/impacts of the project on police and fire protection services, public works, educational services, sewer capacity, and the water supply system.

7.5.4.5 The appropriate Board may require the submission of information which could be required by the MEPA Unit if an EIR were required under applicable MEPA regulations.

7.5.5 Results of the DIR Process

The selected consultant shall complete the Scope of Work developed in Section 7.5.4 above and submit ten (10) copies of a written report to the appropriate Board and the Applicant. This Report and any accompanying maps shall also be submitted in electronic format.

The Board shall employ the Report in reaching its decision on the application. Mitigation recommendations from the Report may be incorporated into a final decision on the application. If the DIR demonstrates that one or more of the decision-making criteria, objectives or standards cannot be met, the DIR may be the basis for disapproval of the application.

Upon the satisfactory completion of the Scope of Work, the consultant shall be compensated the agreed upon fee and the Applicant shall receive any remaining interest from the account. In no case shall the fee exceed the agreed upon amount unless authorized in advance by the Applicant and the appropriate Board.