

ANDOVER PLANNING BOARD RULES GOVERNING SPECIAL PERMITS AND SITE PLANS

Section 1.0 - Authority

Massachusetts General Laws (MGL), Chapter 40A (The Zoning Act), Section 9 provides that zoning bylaws may allow for certain classes of special permits to be issued by a Special Permit Granting Authority (SPGA), and further that such SPGA shall adopt and from time to time amend rules relative to the issuance of such permits, and such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for submission and approval of such permits. Such rules and any amendments thereto shall be filed in the Office of the Town Clerk.

The Planning Board is empowered by the Andover Zoning Bylaw to act as a Granting Authority for Special Permits and Site Plan Review on the following:

1. Reduction in parking
2. Cluster Development
3. Removal or regrading of earth materials incidental to subdivision development
4. Planned Development, Multi-family Dwelling, or Mixed-use
5. Multiple-family dwelling construction, Attached Cluster
6. Watershed Protection Overlay District
7. Groundwater Protection Overlay District
8. Major Non-Residential Project
9. Assisted Living
 - a. Long term care facility
 - b. Assisted living residence
 - c. Congregate care facility
 - d. Independent living residence
10. Disturbance of Slopes in Excess of 35%
11. Senior Residential Community Overlay Special Permit
12. Historic Mill Overlay District Special Permit
13. ID2 Use Special Permit
14. Solar Special Permit
15. Multifamily Overlay District
16. Site Plan Review

Section 2.0 - General

The Planning Board, acting in its capacity as a Granting Authority for Special Permits and Site Plan Review, shall adhere to all criteria and requirements for such permits as outlined in the Zoning Act, and the Zoning Bylaw, as well as the requirements contained in these Rules. The Board may not consider an application for a special permit or site plan review associated with a use not provided for under the Zoning Bylaw, except if such use has received prior approval from the Zoning Board of Appeals. A special permit or site plan certificate may be granted when the Planning Board has found that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and Town, and that the special permit or site plan is in harmony with the general purpose and intent of the Zoning Bylaw. The Planning Board must give due consideration to the specific standards described in the Zoning Bylaw, as well as to the adequacy and accessibility of public highways and municipal utilities, the sufficiency and suitability of off-street parking, loading facilities, screening and landscaping, and the effect on the amenity of the neighborhood. The foregoing is more specifically described in the Zoning Bylaw. The Zoning Board of Appeals may reference these rules and procedures as necessary as they conduct site plan or special permits reviews.

Section 3.0 - Applications

Petitioners should discuss proposed applications with the staff of the Planning Department prior to formally submitting such applications.

Applications shall be made on forms approved by the Planning Board and provided by the Planning Department, examples of which are attached to and made a part of these Rules.

The petitioner shall file an application with the Town Clerk and shall then file a copy of such application certified by the Town Clerk as to the date and time of filing in that office with the Planning Board in the manner and form prescribed by the Zoning Bylaw and these Rules.

Applications shall be complete when submitted to the Planning Board. A complete application will consist of all plans, documents, forms, calculations, and filing fees, in size, number and amount as prescribed by the Zoning Bylaw and these Rules. The Planning Department shall review the application for completeness, and in the event that such application is incomplete shall notify the petitioner of the incomplete items.

In no case will an application be accepted without the advertising fee and the appropriate filing and processing fees. An application lacking substantial items shall be rejected. An application lacking items deemed to be minor in nature by the Planning Department may be accepted; however, all missing items must be submitted prior to the date of the interdepartmental review meeting, or such other date as is determined by the Planning Department.

The applicant shall submit the following documentation for site plan review and special permit as application materials:

1. A site plan, prepared by a registered professional architect, registered civil engineer or a professional landscape architect, drawn at a scale of one inch equals 40 feet, containing the following information:
 - a. Date;
 - b. North arrow;
 - c. Name and address of the owner;
 - d. Name and address of the designer;
 - e. Locus plan;
 - f. Lot lines and setbacks;
 - g. Adjacent streets and ways;
 - h. Owners and uses of abutting lots;
 - i. Zoning district boundaries;
 - j. Wetlands and wetlands buffers, as shown on maps entitled "Wetlands Areas of Andover, Massachusetts" available from the Andover Conservation Commission;
 - k. All existing and proposed topography at two-foot intervals;
 - l. All test boring sites, keyed to accompanying documentation of results;
 - m. All existing and proposed buildings, structures, parking and loading areas (with dimensional notations), driveways, walkways, signs, fences and refuse collection areas;
 - n. All existing structures and/or pavement to be removed or demolished;
 - o. All utilities, including waterline locations, sewer line locations and profiles, and storm drainage systems;
 - p. All areas designated as easements, conservation restriction areas or open space; wherever possible, provision for pedestrian/bicycle accessways connecting to adjacent open space, neighborhoods, schools, recreation areas or transportation facilities and for alternative transit programs.
2. A separate plan drawn at the same scale, showing landscaping and lighting details.
 - a. Notable natural features such as natural drainage features, rock outcrops, and trees having a ten-inch caliper dbh or more;
 - b. General location of existing concentrations of invasive species including whether species are of low concentration or dispersed. Identify types of invasive species in the plan notes;
 - c. Pre-existing human-made features such as stonewalls or other remnants of previous development;
 - d. Proposed grading at two-foot contour intervals;
 - e. Proposed location of retained vegetation with limits of disturbance. Provide a description of the methods of protection for retained vegetation during the construction phase in the plan notes;

- f. Location of all hardscape and similar features included in the design of the overall site/landscape design (e.g., walkways, walls, masonry, relocated stonewalls, etc.);
 - g. List of proposed plantings. Provide a description of which stressors the plant may need to endure and how the plant is suited to the location(s) in which it will be planted;
 - h. Location of proposed plantings and estimated height of any vegetation used for screening, both installation height and height at maturity. Provide the intended caliper of any new trees at the time of planting and the expected canopy radius after 15 years of growth;
 - i. Location and estimated areas of tree canopy coverage at species maturity, including anticipated parking area canopy coverage from shade trees at maturity. Provide a description of the anticipated soil volume associated with each newly planted tree and the justification for that soil volume;
 - j. Location of any landscaped areas specifically designed to manage and/or treat stormwater;
 - k. Width of any feature (e.g., parking islands, property buffers, etc.) that will be reviewed for compliance with the Zoning Bylaw;
 - l. Identification of areas where soil may be compacted by pre-existing use or construction activities, where these areas are to be planted, describe soil restoration techniques to be used;
 - m. Identification of any areas where seeding will be used to stabilize/protect exposed soil. Identify the seed mix composition in the plan notes;
 - n. Location of any irrigation system infrastructure;
 - o. Location of areas where soil or other construction related material will be temporarily stockpiled during construction;
 - p. Location of areas where snow will be temporarily stockpiled after construction;
 - q. Proposed lighting with location, height, and light radius of any freestanding light fixture (e.g. light posts) that will exceed three feet in height measured from finished grade as well as the color temperature of the lighting (correlated color temperature).
3. A plan showing elevations of all proposed buildings and structures.
 4. A written statement detailing the size of the lot, the proposed use, parking calculations, building footprint coverage and calculations of volume of earth to be moved and removed.

Procedures for special permit and site plan reviews:

The Board will review the following information along with criteria and information as listed in the Bylaw:

1. Copies of the application materials as listed on the attached schedule shall be submitted to the Planning Board.

2. An interdepartmental review of the application materials shall be conducted by staff of the Departments of Community Development and Planning, Assessors, Public Works, School Department, Police and Fire. Comments of the staff shall be submitted in writing to the Planning Board.
3. Following receipt of staff comments, the Planning Board shall conduct a review during a regularly scheduled meeting. The Planning Board may approve the site plan only if it determines that the proposed development meets the intent and provisions of the Zoning Bylaw and will not result in detriment to the town or the neighborhood in which it is located. In approving or disapproving the site plan, the Planning Board shall, at a minimum, consider staff comments and the following:
 - a. The proposed placement of buildings;
 - b. Major topographical changes;
 - c. Surface and ground water drainage and erosion control;
 - d. Protection against flooding and inundation;
 - e. Prevention of water and pollution and environmental damage;
 - f. Provision for adequate utility services;
 - g. Provisions for off-street parking and loading;
 - h. Location of intersections of driveways and streets;
 - i. The effect of additional traffic created by the development on intersections and streets likely to be affected by the proposed development;
 - j. Provision for pedestrian/bicycle accessways connecting to adjacent open space, neighborhoods, schools, recreation areas or transportation facilities and for alternative transit programs;
 - k. Provisions for landscaping and adequate screening and buffering.

Section 4.0 - Filing Fees

Advertising fees and filing and processing fees in the amounts listed in the following schedule shall be paid at the time of filing an application. Advertising fees shall be paid by separate check, and all checks shall be made payable to the Town of Andover. No reviews or hearings will be scheduled without receipt of the advertising and filing and processing fees (see Appendix A).

Section 5.0 - Waiver of Fees

The per-unit filing and processing fees may be waived by the Planning Board for dwelling units which are classified affordable as defined by Massachusetts General Laws, Chapter 40B, or as defined by the Town in the Zoning Bylaw.

Section 6.0 - Special Reports or Studies

When in its opinion foreseeable issues of drainage, traffic, health, water, sewer, utilities and safety may be involved in an application the Planning Board may require special reports or studies to be

prepared in association with an application. The scope or detail of such reports or studies shall be determined by the Planning Department and shall be forwarded to qualified consultants or engineers in an RFP (Request For Proposal). The Planning Department shall select a consultant or engineer based on the lowest bid received, and such selection shall be ratified by the Planning Board. The Planning Board reserves the right to make a finding as to the qualifications of a consultant or engineer. Such reports or studies shall be paid for by the petitioner in the form of a check payable to the consultant or engineer selected, which shall be held by the Planning Department until the report or study has been accepted by the Planning Board.

Section 7.0 - Reviews by Other Boards and Departments

Applications shall be forwarded to other town boards and departments for review and comment. Town boards and departments shall include, but not be limited to Public Works, Fire, Police, Building, Health, Conservation, and School.

The Planning Department may schedule an interdepartmental staff review meeting at which the petitioner may present an application to Town Boards and Departments for comment regarding such items as design, utilities, drainage, and traffic. Comments and recommendations from other town boards and departments shall be delivered in writing or in person to the Planning Board prior to or at the public hearing convened on the application.

Section 8.0 - Withdrawal of Application

An application for a site plan or a special permit may be withdrawn without prejudice by the petitioner in accordance with the following procedures:

1. An application for which no notice of hearing has been published may be withdrawn without prejudice by submission of a letter to the Planning Board requesting such withdrawal. The letter requesting withdrawal shall be filed with the Town Clerk and attached to the subject application. All filing and processing fees will be returned to the petitioner. If the request for withdrawal is received after the Planning Department has delivered the notice to the newspaper for publication, the advertising fee shall not be returned to the petitioner.
2. An application for which notice of a public hearing has been published may be withdrawn without prejudice only with the approval of the Planning Board. The petitioner shall present a letter to the Board requesting such withdrawal, and the Planning Board upon convening the public hearing shall vote to accept or deny such request and shall notify the petitioner in writing of such action, which notice shall be filed with the Town Clerk and attached to the subject application. One-half of the filing and processing fee may be returned to the petitioner with approval of the Planning Board. The advertising fee shall not be returned.

Section 9.0 - Public Hearing

Pursuant to the Zoning Act the Planning board shall convene a public hearing on an application for a special permit within sixty-five (65) days of the filing of the petition with the Town Clerk. Notice of such hearing shall appear at least once in each of two successive weeks in a newspaper

of general circulation in the Town of Andover. Notice of the public hearing shall be sent by mail, postage prepaid, to all parties in interest as defined in the Zoning Act.

Section 10.0 - Public Meeting, Rules of Procedure

The public meeting shall be convened at the time and place set forth in the notice, the Chair shall describe the following rules of procedure of the hearing for those in attendance:

1. As a Granting Authority the Planning Board is acting in a quasi-judicial capacity - much the same as the Zoning Board of Appeals - and must follow certain specific statutory rules in considering a petition for a permit;
2. The Chair shall state that a recording is being made of the hearing for the purpose of the minutes, and shall ask if anyone else in attendance is making a recording;
3. The petitioner, or the petitioner's representative, shall be given the uninterrupted opportunity to present the details of the proposal to the Planning Board, during which time only Board members may ask questions or seek clarification. During the presentation the petitioner shall provide the Board with data, documentation, and testimony demonstrating that the proposal meets the standards set forth in the Zoning Bylaw for such permit;
4. The Planning Board Chair may request a report from the planning staff on the petition which may include comments or recommendations received from other town boards or departments, as well as any points raised during the interdepartmental review meeting. The planning staff, or a consultant or engineer, may present the finding of any special report or study prepared pursuant to Section 6.0 of these Rules;
5. The Planning Board Chair shall allow reasonable discussion between the petitioner, the Board, and the planning staff on any reports, comments, or recommendations;
6. The Planning Board Chair shall then allow others in attendance at the hearing to make comments, ask questions, or seek clarification. The Chair shall first ask if there are any parties in interest in attendance who wish to speak in favor of the petition, and shall next ask if there are any in attendance who wish to speak in opposition to the petition. All questions or comments from those in attendance shall be directed to the Chair of the Board. Persons wishing to be heard during this portion of the hearing shall state their name and address for the record prior to speaking;
7. Following the presentation and discussion on the petition the Chair may ask for a motion that the hearing be closed, or in the event additional information or testimony is required, may announce that the hearing will be continued to a later meeting, the time and place of which will be stated to those in attendance;
8. Following the close of the public hearing the Chair may announce that the Board will deliberate on the matter of the petition later in the same meeting or during a subsequent meeting of the Board the date of which shall be given, and that a decision on the petition will be filed with the Town Clerk as expeditiously as possible taking into account the circumstances and complexity of the factual and legal issues developed during the hearing.

Section 11.0 - Conditions

A site plan or a special permit may be issued subject to such conditions or safeguards, including limitations of time and use, as the Planning Board shall deem to be reasonably necessary.

Section 12.0 - Decision of the Planning Board

The Planning Board shall render a decision on an application pursuant to the Zoning Act, Sections 9, and 11, and the provisions of the Zoning Bylaw. A written record of such decision, shall be filed with the Town Clerk. Notice of the filing of the decision shall be sent to all parties in interest designated in Section 11 of the Zoning Act, and to every person present at the hearing who requested such notice and provided the address to which such notice should be sent. The notice shall specify that appeals, if any, must be made pursuant to Section 17 of the Zoning Act, and such appeal **must** be made within twenty (20) days of the filing of the decision with the Town Clerk.

Section 13.0 - Appeals

Any person, or municipal officer, or board aggrieved by a special permit decision of the Planning Board may appeal such decision by bringing an action in superior court within twenty (20) days after the decision has been filed in the office of the Town Clerk. Such appeal shall be in form and content and manner as provided for by Section 17 of the Zoning Act, and notice of such appeal must have been received by the Town Clerk within the twenty (20) day period.

Appeal of a site plan approval shall be in accordance with G.L. c. 40A, § 17.

Section 14.0 - Extensions

The required time limits for a public hearing or the rendering of a decision on an application may be extended by written agreement between the petitioner and the Planning Board, and such agreement shall be filed with the Town Clerk and attached to the subject application.

Section 15.0 - Recording of Special Permit

Pursuant to Section 11 of the Zoning Act no special permit, or any extension, modification, or renewal thereof shall take effect until a copy of the decision has been recorded in the Registry of Deeds.

Section 16.0 - Lapse

Pursuant to Section 9 of the Zoning Act, and Section 9.4.7. of the Andover Zoning Bylaw, a special permit shall lapse if substantial use thereof or construction has not begun, except for good cause, within thirty-six (36) months of the date that the special permit was recorded.

A site plan approval shall lapse after one year from the date of approval if a substantial use thereof has not sooner commenced for good cause. The Planning Board may extend its approval in writing, for good cause, upon written request of the applicant.

Section 17.0 - Construction or Use

Pursuant to the Zoning Bylaw construction or uses under a special permit or site plan issued by the Planning Board shall conform to any subsequent amendment of the Zoning Bylaw unless the use or construction is commenced within a period of six (6) months after the issuance of such permit, and in cases of construction unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

Section 18.0 - Modifications to Special Permits or Site Plans

A special permit or site plan issued by the Planning Board may be modified in the following manner:

1. Minor Changes: Changes in plans or conditions attached to a special permit or site plan which are deemed by the Planning Board to be minor in nature and which are in compliance with the provisions of the Zoning Bylaw may be allowed following presentation to the Planning Department of drawings denoting such changes accompanied by a narrative description, including the reason such changes are necessary. The Planning Department may consult with other town boards or departments and will make a recommendation to the Planning Board. The Planning board will announce its decision regarding such requested changes, and its reasons therefore, at a regularly scheduled public meeting. The Planning Board may vote to approve such changes only if it finds that the scope and nature of the original permit has not been expanded.
2. Major Changes: Changes in plans or conditions attached to a special permit or site plan which are deemed by the Planning Board to be major in nature shall be the subject of a petition to modify the special permit site plan and shall follow the same procedures for notice, public hearing, and decision as for the original permit. The petition shall be accompanied by the advertising fee and the filing and processing fees.

Section 19.0 - Enforcement

Conditions imposed upon a special permit or site plan by the Planning Board pursuant to the Zoning Bylaw may be enforced by the Planning Board through the Building Commissioner or Planning Department. In the instance of infractions deemed by the Board to be minor in nature the holder of the special permit or site plan will be notified either verbally or in writing and directed to take corrective action. Repeated infractions, or infractions deemed by the Board to be major or having a direct impact on the health, safety, and welfare of the residents of the Town shall result in a Notice of Violation sent to the permit holder by registered mail, a copy of which shall be sent to the Inspector of Buildings. The Planning Board may request the Inspector of Buildings to impose a Stop Work Order on the project site and may further direct the permit holder to appear before the Board at a public meeting to secure compliance with the conditions attached to the special permit. Violations of the provisions of the Zoning Bylaw shall be enforced pursuant to the Zoning Bylaw.

Section 20.0 - Amendments to Rules Governing Special Permits and Site Plans

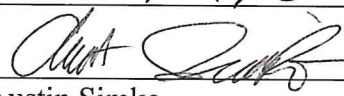
The Planning Board may from time to time amend its Rules Governing Special Permits and Site Plans. Proposed amendments shall be subject to a public hearing, notice of which shall appear at least once in each of two successive weeks in a newspaper of general circulation in the Town of Andover. Notice shall provide a general description of the proposed amendments and shall state the time and place where copies of the proposed amendments may be examined. Amendments, once adopted by the Planning Board, shall be filed in the office of the Town Clerk.

Adopted on June 24, 2025, by majority vote of the Andover Planning Board. These rules were amended on September 28, 1999, October 25, 2001, December 14, 2021, July 11, 2023, May 28, 2024 and further modified on June 24, 2025.

ANDOVER PLANNING BOARD


Paul Materazzo
Director of Planning & Land Use

Filed in the Office of the Town Clerk on

July 7, 2025

Austin Simko
Town Clerk

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