

# **Fitchburg Planning Board**

**Rules & Regulations for Special Permits & Site Plan Review**

**March 2020**

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## **I. GENERAL**

### PURPOSE

The purpose of these rules and regulations is to establish procedures and provide clear guidelines for the smooth administration of the Special Permit and Site Plan Review function, when the Planning Board is acting as the Special Permit Granting Authority or Site Plan Review authority under the Fitchburg Zoning Ordinance.

These rules and regulations are not a complete statement of all rules and procedures applicable to the Planning Board. Additional requirements are specified in the Fitchburg Zoning Ordinance (Chapter 181 of the City Code), in State law, and in the Board's Subdivision Rules and Regulations. In cases of inconsistency between these rules and the Zoning Ordinance, the Ordinance shall govern. In cases of inconsistency between these rules or the Zoning Ordinance and State law, the State law shall govern.

## **II. SPECIAL PERMITS**

### AUTHORITY

These Rules and Regulations are adopted by the Planning Board under the authority in M.G.L. Ch. 40A, Section 9 and Section 181.937 of the Fitchburg Zoning Ordinance. These Rules & Regulations become effective upon their adoption by majority vote by the Planning Board at a public meeting, and supersede all previous Special Permit Regulations of the Board, which are hereby repealed. These Rules & Regulations are subject to revision from time to time by the Fitchburg Planning Board and may be amended by majority vote of the Board.

### VOLUNTARY PRE-APPLICATION MEETING (OPTIONAL)

Special Permit applicants are encouraged to discuss proposed applications with Community Development Department staff prior to a formal submission. A pre-application meeting may include Community Development Department staff and other departments and boards. The purpose of the pre-application meeting is to review the application submittal requirements of a particular proposal, discuss potential issues and to allow prospective applicants to ask questions about the development review process.

The applicant may submit a concept plan of a proposed development for the Planning Board's informal review and comment at a posted Planning Board meeting. The purpose of this meeting is to inform the Board about a future application and to identify issues to be addressed during the permitting process. No binding commitments shall be made by the Board at a pre-application meeting. The submission of a concept plan shall not be considered a formal application.

## APPLICATION PROCEDURE

Any applicant (person, corporation, partnership, etc.) who desires to obtain a Special Permit from the Planning Board shall file with the Board all of the items listed below:

- Application form (See Appendix)
- Letter of Zoning Determination from the Building Commissioner to properly categorize the proposed use within the Zoning Ordinance.
- Tax Compliance Certificate from Treasurer's Office
- Three paper copies and a digital (.PDF) copy of a site plan showing information listed under "Plan Requirements" below, (with any request for waivers of site plan requirements)
- Application fee (see below)

Community Development Department staff will review application materials for completeness prior to forwarding a copy of the Application with the City Clerk's office. An application shall not be deemed complete until all copies of required information and the application fee have been filed, or a waiver of the applicable requirements is requested in writing.

## PLAN REQUIREMENTS

Site plans accompanying Special Permit applications and Site Plan Review applications shall be prepared by a Massachusetts Registered Professional Land Surveyor or Professional Engineer, or other professional as approved by the Planning Board. The plan's dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. Where large plans are submitted (for example, 24" x 36") applicants shall submit a reduced (11" x 17") version of the plan.—A digital copy is also required, unless waived by the Board. The site plan should include the following items (*unless waived or deemed unnecessary by the Board*):

1. The name of the property owner (and applicant, if different).
2. The name and stamp of the surveyor, engineer, etc. who prepared the plan.
3. A locus plan, at a scale of one inch (1") equals one hundred feet (100') (or other scale deemed acceptable to the Board) showing the entire project and its relation to adjoining areas.
4. Location of all existing and proposed buildings, structures, signs, parking and loading areas.
5. Waterways, floodplain, wetland areas and wetland buffer zones.
6. Outdoor lighting and landscaping areas, areas for snow storage after plowing.
7. Existing and proposed topography and drainage plan, at two-foot intervals and plans for handling stormwater drainage. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to City of Fitchburg subdivision regulations.

## FEES

Special Permit application fees are listed below. No Special Permit public hearing will be scheduled without the receipt of the appropriate filing fee. Checks shall be made payable to "City of Fitchburg". *(Note: application fees are non-refundable)*  
*(See also "Review Fee" section below)*

Special Permit <i>(other than PUD or Flexible Development)</i>	\$300
Planned Unit Development or Flexible Development	\$25 per dwelling unit <i>(plus \$100 publication fee)</i>
Modification or Amendment of Special Permit	\$25

The Planning Board may, by majority vote, reduce or waive the Special Permit application fee for non-profit or municipal applicants. Where a Special Permit use also requires a Site Plan Review under Section 181.94 of the Ordinance, only the higher of the two application fees shall be charged.

## REVIEW BY OTHER BOARDS AND DEPARTMENTS

Per Section 181.933, "Special Permit Procedures", Applications and plans for Special Permits shall be forwarded to other boards and departments for review and comment as necessary. If no comments have been received from Departments within two weeks of their transmittal, it shall be deemed as No Comment.

## PUBLIC HEARING

The Planning Board shall open a public hearing in accordance with the provision of MGL Ch.40A, S.11 within sixty-five days following the submittal of a completed application. All materials to be transmitted to the Board must be submitted by one week prior to meeting.

## WITHDRAWAL OF APPLICATION

A Special Permit application may be withdrawn without prejudice by an applicant prior to publication of the public hearing notice by submission of a letter to the Planning Board requesting such withdrawal. An application for which notice of public hearing has been published may be withdrawn only with approval of the Planning Board. In this case, one-half of the filing fee may be returned to the petitioner with the approval of the Board.

## REVIEW FEES

*(Adopted under the authority of M.G.L. Ch. 44, Section 53G)*

Upon reviewing a Special Permit application, if the Planning Board determines that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, or because of a project's potential impacts, it may require that applicants pay a "review fee", in addition to the normal special permit application fee. The review fee may consist of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board to assist in the review of an application. The amount of the review fee to be paid by the applicant shall be estimated by the Board on an individual project basis. The Board may engage the services of traffic engineers, civil engineers, lawyers or other appropriate professionals who can assist the Board in analyzing a project.

Funds received by the Board pursuant to this section shall be deposited with the City Treasurer who shall establish a special account for this purpose. Expenditures from this account shall be made at the direction of the Planning Board without further appropriation and shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the Special Permit. When the review fee account is depleted, an additional deposit shall be made by the applicant.

Any applicant may take an administrative appeal from the selection of the outside consultant to the City Council. 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, as specified in MGL c. 44, s. 53G.

Review fees may only be spent on services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Planning Board's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be refunded to the applicant, or the applicant's successor in interest. A final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or party claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

Any reports generated by the employment of outside consultants shall be public information and shall be available, at a reasonable copying fee, to any member of the public. The special permit applicant shall also be provided with a copy of any such report.

## SPECIAL REQUIREMENTS FOR CERTAIN TYPES OF SPECIAL PERMITS

In addition to the requirements of Section 181.93 of the Zoning Ordinance, applications for the following types of Special Permits should be accompanied by additional information as follows:

### **“Infill” Lots**

*(Refer to Section 181.425, “Certain Undersized [Infill] Lots”)*

The purpose of the infill lot provision is:

- To facilitate the reuse of vacant, condemned, or substandard property within existing urban or blighted areas as single family dwelling units.
  - To reduce vagrancy, litter, abandoned or substandard structures.
  - To lessen density and promote single-family owner occupied homeownership in urban areas, and
  - To improve the neighborhood character.
1. An “infill” lot application shall be accompanied by a copy of the registered or recorded deed and a plan, similar to a “Mortgage Inspection Plan”, showing the footprint of the proposed building, setbacks from property lines, and area(s) for off-street parking. *The application shall also include information on the style of dwelling to be built (or an architectural elevation of the structure), and information to show how the proposed dwelling is consistent in scale and setbacks with abutting structures and those in the immediate neighborhood.*
  2. Infill lots must have frontage on an approved way and which the Planning Board determines to provide suitable access to the buildable portion of the lot. Approved ways include a public way or a way which the City Clerk certifies is maintained and used as a public way, or a way shown on a plan thereto approved and endorsed in accordance with the Subdivision Control Law. A paper street is not an approved way.
  3. Infill lots shall be served by both public sewer and public water in all districts, or otherwise comply with applicable zoning lot size requirements.
  4. A lot with an existing dwelling on it may not be subdivided into a non-conforming lot for the purpose of creating an infill lot. No lot shall be changed in size, shape, or ownership so that the height, area, yard, frontage, or off-street parking requirements are no longer satisfied.
  5. Smaller non-conforming lots held in common ownership maybe combined and re-subdivided into infill lots, upon determination of the Planning Board that said development conforms to the general purpose of the infill lot section herein described.
  6. The subdivision of a parcel that was existing at the time of the adoption of the infill lot section (July 21, 2001) in order to create an infill lot is **not permitted**. (Note: “subdivision” as used in this section shall mean “adding new property lines”. This does not include re-subdivision of existing lots where the total number of lots stays the same or decreases.)
  7. A single-family dwelling constructed under the Infill provision shall be deed restricted for use as a single-family dwelling.
  8. A single-family dwelling constructed under the Infill provision shall not be changed in size, shape, or ownership so that the height, area, yard, frontage, or off-street parking requirements approved therein are no longer satisfied.
  9. A single family dwelling constructed on a lot under the Infill provision shall not be further subdivided.

10. At a minimum, the structure (including stairs, front porches etc.) shall have minimum side and front setbacks of 15 feet. (Refer to Section 181.4216).
11. Notwithstanding the height limit in Section 181.414, dwellings on infill lots shall be limited to 2½ stories high.
12. The Planning Board shall notify City Council of all infill lot Special Permit applications and public hearing dates
13. If it is determined that a stormwater management plan is required, the stormwater management plan shall be subject to review and approval by the City of Fitchburg DPW and/or Conservation Commission as part of the special permit conditions.
14. Where steep slopes are encountered, the proponent shall recommend and install a permanent and aesthetic means of stabilizing the slope(s).
15. Frontage on a slope shall have a machine made asphalt berm placed along the length of the public or private way.
16. At a minimum, the front yard shall be loamed and seeded. Areas with ledge, hardpan, sandy or otherwise unfavorable topsoil shall be provided with a minimum of 6" loamed base unless waived by the Board.
17. Infill lot driveways shall be paved and shall meet the residential parking provisions under 181.75 and applicable off-street parking requirements of 181.51. (See below for reference)
18. Permanent access to lots are subject to obtaining applicable curb cut permit(s).
19. The approval of an infill lot Special Permit does not preclude compliance with other applicable zoning or subdivision control regulations.
20. The approval of an infill lot Special Permit does not preclude or supercede existing deed restrictions, easements, rights of access etc. It is the responsibility of the property owner and/or applicant to prepare and ensure that a site plan complies with said conditions.

*FYI, here are some other sections of the Zoning Ordinance that may have an impact on Infill lots:*

- *181.512(A)(1) Two off-street parking spaces for each dwelling unit.*
  - *181.5141 Parking areas shall be clearly delineated and shall be provided with a permanent dust free surface and adequate drainage.*
  - *181.5143 Each off-street lot shall have an access driveway no more than thirty-six (36) feet.*
  - *181.5144 Off-street parking shall be set back at least three (3) feet from any property line, building and sidewalk.*
  - *181.7511 Except in the case of a common driveway, no driveway shall be located within ten (10) feet of any side or rear lot line unless the Planning Board determines that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.*
  - *181.7512 The distance of any driveway measured from the edge of traveled portion of the way providing access to the lot to the point where the principal building is proposed shall not exceed a distance of five hundred (500) feet, unless the Planning Board shall determine that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.*
  - *181.7513 The grade of each driveway where it intersects with the edge way providing access to the lot shall not exceed five percent (5%) for a distance of 20 feet from the traveled surface of such way unless the Planning Board determines that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.*
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### **Wireless Communications Facilities**

*(Please refer to Section 181.62, "Wireless Communication Facilities")*

Prior to submitting a Special Permit application for a Wireless Communication Facility under Section 181.313(c)(24) of the Zoning Ordinance, the applicant should consult with the Board and Community Development Department staff as to the need for a visual simulation study, the identification of the several viewlines of the proposed facility, the date and time of any simulation, (crane or balloon test), etc., and any potential waivers to be requested by the applicant. Wireless facility Special Permit applications shall also be accompanied by stamped, addressed envelopes to all property owners (according to the latest available tax listing certified by the Assessors Office) within a ¼ mile (1,320-foot) radius of the site of the proposed facility.

### **Common Driveways**

*(Please refer to Section 181.752 of the Ordinance)*

For lots to be used for residential dwelling purposes where adequate access is provided across the frontage, the Planning Board may grant a Special Permit to allow common driveways for no more than two lots that meet the zoning requirements. Common driveways may be permitted to allow for more efficient traffic flow, to reduce traffic hazards from numerous individual driveways, to consolidate access to lots across wetland resources, and otherwise where, in the Planning Board's judgment, such an arrangement will be more advantageous to the neighborhood than separate driveways. The applicant shall submit documents, plans, and profiles for approval to the Planning Board in accordance with Section 181.752 of the Ordinance and the Fitchburg Planning Board Rules and Regulations for Special Permits and Site Plan Review.

The Common Driveway shall be within a common access and utility easement at least twenty-five (25) feet wide. All proposed utilities within the common driveway shall be shown on the plan submitted with the Special Permit application. At a minimum, the first twenty-five (25) feet from the public way shall be paved with bituminous asphalt with a total thickness of three inches and return (corner) radii of twenty-five (25) feet. Longer paving distances may be required due to factors such as length or grade of driveway, erosion, visual impacts or safety factors. Access from within the common driveway to the public way shall be so drained as to prevent damage or hazard to abutting properties or public streets.

A permanent marker not greater than six (6) square feet in area with a diagram listing addresses of the properties shall be placed at the edges of the driveway where it meets the public way and where the common driveway meets each individual lot driveway. Where a common driveway accesses a roadway other than a public way, additional address markers may be required. The common driveway may be named, but the name must be approved by the Planning Board during the Special Permit review or at the time of application for street numbering to the DPW.

Should the Special Permit be approved, a document shall be recorded at the Registry of Deeds and shall so be recited in and attached to every deed to each lot served by the common drive. Such document must include the following:

1. Provisions for allocating responsibility for maintenance, repair and/or reconstruction of the common driveway, drainage system and signage.
2. Text of proposed easements including meets and bounds description.

## WAIVERS

Any of the requirements of these Rules & Regulations may be waived, in part or in total, at the discretion of the Planning Board, if the Board determines that the waiver(s) will not be detrimental to the purpose of the Special Permit section of the Ordinance, and will be in the best interest of the City.

## MODIFICATIONS TO SPECIAL PERMITS

A Special Permit issued by the Planning Board may be modified in the following manner:

### *Minor Changes*

Proposed changes to plans or conditions attached to a Special Permit which are deemed by the Board to be minor in nature may be allowed following submittal of a written request, including the reason such changes are necessary, to the Community Development Department. The Planning Board may vote to approve such changes only if it finds that the scope and nature of the original Special Permit would not be significantly changed.

### *Major Changes*

Proposed changes to plans or conditions attached to a Special Permit which are deemed by the Planning Board to be major in nature may be made only after following the same notice and hearing procedures as for the original Special Permit. The petitioner shall submit a written request describing such changes, accompanied by the reason such changes are necessary, and the applicable application fee.

### III. SITE PLAN REVIEW

#### AUTHORITY

These Rules and Regulations are adopted by the Planning Board under the authority in Section 181.947 of the Fitchburg Zoning By-law. These Rules & Regulations become effective upon their adoption by majority vote by the Board at a public meeting.

#### APPLICATION PROCEDURE

Any applicant (person, corporation, partnership, etc.) who desires to obtain Site Plan Approval from the Planning Board shall file with the Board all of the items listed below.

- Application form (See Appendix)
- Letter of Zoning Determination from the Building Commissioner to properly categorize the proposed use within the Zoning Ordinance.
- Tax Compliance Certificate from Treasurer's Office
- Three paper and a digital (.PDF) copy of a site plan showing information listed under "Plan Requirements" below, (with any request for waivers of site plan requirements)
- Application fee (see below)

Community Development Department staff will review application materials for completeness prior to forwarding a copy of the Application with the City Clerk's office. An application shall not be deemed complete until all copies of required information and the application fee have been filed, or a waiver of the applicable requirements is requested in writing.

#### PLAN REQUIREMENTS

Site Plans shall include the same information as specified in the Special Permit section (see page 2 above), unless waived by the Board.

#### MAJOR / MINOR SITE PLAN

*(Refer to Section 181.9441 of Zoning Ordinance)*

Proposed uses subject to site plan review which will not exceed a total gross floor area of 2,000 square feet, nor generate the need for more than 10 parking spaces shall be deemed a "minor site plan." All other site plans will be deemed a major site plan, requiring notice and a public hearing per Section 181.942. Minor site plans, at the discretion of the Planning Board, may be required to set forth all of the information required by Section 181.943; provided, however, that the requirements for the preparation of such plans shall normally be relaxed by the Planning Board.

#### FEES

Site Plan application fees are as listed below. No review for hearing will be scheduled without the receipt of the appropriate filing fee. Checks shall be made payable to "City of Fitchburg". *(Note: application fees are non-refundable)*

Non-residential use	\$300
Multifamily Residential Use	\$100 per dwelling unit, but max. \$1,000
Minor site plan	\$25
Modification/Revision of approved Site Plan	\$25

The Planning Board may, by majority vote, reduce or waive the application fee for non-profit or public applicants.

## WAIVERS

Any of the requirements of these Rules & Regulations may be waived, in part or in total, at the discretion of the Planning Board, if the Board determines that the waiver(s) will not be detrimental to the purpose of this section, and will be in the best interest of the City.

## SITE PLAN CRITERIA

(Please refer to Section 181.945 of the Zoning Ordinance)

Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives: *(Refer to Section 181.945 of the Ordinance)*

- Provide adequate access to each structure for fire and service equipment,
- Make adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations.
- Minimize the volume of cut and fill, the number of removed trees 6-inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
- Maximize pedestrian and vehicular safety both on the site and egressing from it;
- Minimize obstruction of scenic views from publicly accessible locations;
- Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- Minimize glare from headlights and lighting intrusion;
- Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
- Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
- Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.

## SITE PLAN REVIEW DECISION

The Planning Board may impose reasonable conditions in the Site Plan Approval, at the expense of the applicant. Where a plan is approved with modifications, one paper and one digital copy of the revised site plan shall be submitted to the Community Development Department prior to the release of a Site Plan Approval decision.

## LAPSE OF SITE PLAN APPROVAL

Per Section 181.946 of the Zoning Ordinance, Site Plan Approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

## Appendix

### CONTACTS:

#### Planning Board, Conservation Commission

Community Development Department, 166 Boulder Dr., Suite 102

Michael O'Hara, Principal Planner

Phone: 978-829-1891

E-mail: [mohara@fitchburgma.gov](mailto:mohara@fitchburgma.gov)

#### Building Department

Fitchburg Municipal Offices, 166 Boulder Drive, Suite 108

Mark Barbadoro, Building Commissioner

Phone: 978-829-1880

E-mail: [MBarbadoro@fitchburgma.gov](mailto:MBarbadoro@fitchburgma.gov)

### LINKS:

#### Special Permit application

<https://www.fitchburgma.gov/DocumentCenter/View/3711/Planning-Board-Special-Permit-Application->

#### Site Plan Application

<https://www.fitchburgma.gov/DocumentCenter/View/3710/Planning-Board-Site-Plan-Application>

#### Fitchburg Planning Board 2020 meeting schedule

<https://www.fitchburgma.gov/DocumentCenter/View/5341/2020-Meeting-Dates--Deadlines>

#### Directions to Fitchburg Municipal Offices:

<http://www.fitchburgma.gov/411/City-Hall-Hours-Directions>

#### City of Fitchburg

<http://www.fitchburgma.gov>

#### Fitchburg Zoning Ordinance

<https://www.fitchburgma.gov/DocumentCenter/View/2069/Fitchburg-Zoning-Ordinance?bidId>

The Zoning Ordinance is also available for \$10 at the Community Development Dept.

#### Fitchburg Zoning Map

<http://www.fitchburgma.gov/DocumentCenter/Home/View/815>

The Zoning Map is available for \$4 (black & white copy) or \$20 (color copy) at the Community Development Dept.