

## § 155-30. Multiple dwellings.

[Amended 6-26-1995 by L.L. No. 4-1995; 5-27-2003 by L.L. No. 2-2003; 5-9-2011 by L.L. No. 3-2011]

Application may be made to the Planning Board for the development of multiple dwellings with restrictions in addition to those normally applicable to the zone as follows, except as modified by the Planning Board during subdivision review pursuant to § 134-9.

### A. Lot, yard and density regulations.

#### (1) R District.

- (a) Minimum lot area shall be three acres, with a minimum lot width of 200 feet.
- (b) Maximum lot coverage shall be 15%.
- (c) Lot shall be served by and utilize public water and sewer.
- (d) Setbacks for front yard shall be 40 feet, each side yard 30 feet and rear yard 30 feet.
- (e) Maximum density shall be six dwelling units per acre.

#### (2) R-1 District.

[Added 8-25-2014 by L.L. No. 1-2014<sup>[1]</sup>]

- (a) Minimum lot area shall be 10 acres.
- (b) Lots shall be served by and utilize public water and sewer.
- (c) Setbacks for front yard shall be minimum 75 feet, each side yard shall be minimum 75 feet and rear yard shall be minimum 75 feet.
- (d) Maximum density shall be six dwelling units per acre.
- (e) Extension of a public water or sewer service area shall not burden an existing water or sewer district with any cost or debt associated with the extension.

<sup>[1]</sup> *Editor's Note: This local law also repealed former Subsection A(2), C-1 District, and Subsection A(3), C-2 District.*

### B. Design standards.

- (1) Maximum units per structure. No more than eight units shall be contained in a building, and no more than 24 units shall be contained in a single structure, except in the case of adult multiple dwellings, as defined, where the Planning Board, without modifying height or density requirements, permits variations in design due to special site conditions or occupant needs. Exclusively for purposes of this design standard, a building shall be deemed a portion of a multiple-dwelling structure which is formed by division by such things as archways or breezeways, or by a fire wall within the meaning of this state's uniform building and fire code.

[Amended 6-13-2016 by L.L. No. 1-2016]

- (2) Minimum distances between structures. Where there are two or more structures on a single lot devoted to multiple dwellings, the minimum distance between structures shall be 1 1/2 times the height of the highest structure.

[Amended 6-13-2016 by L.L. No. 1-2016]

- (3) Off-street parking. The minimum number of off-street parking spaces provided per dwelling unit shall be as established by Table 1, § 155-27, of this chapter.

## § 155-31. Site plan review.

[Amended 8-22-1994 by L.L. No. 2-1994; 3-8-1999 by L.L. No. 1-1999; 9-14-2009 by L.L. No. 6-2009]

A. Purpose. The purpose of this section is to provide regulations governing the applicability, submission requirements, standards for review and design, and due process for site plan review and approval. The intent is to ensure that the development and use of individual parcels of land do not have an adverse effect on adjacent lands or on the character of the community. Such regulations are designed to ensure that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is proposed and that its impacts can be mitigated by compliance with reasonable conditions. The regulations are also designed to ensure that new development conforms with the Town's planning goals and objectives as expressed in its Comprehensive Plan.

B. Applicability.

(1) Site plan approval by the Planning Board in accordance with this section is required for the proposed use or changes in use of land, buildings, and other structures for:

(a) All special uses cited in § **155-12**, Use regulations, or identified herein. We will file under C. R-Ag-1, #4 SECTION f "Recreation & Amusement Uses"

N/A (b) New principal uses and accessory uses, except for one- and two-family dwellings and related accessory uses.

N/A (c) Expansion and change of uses. Site plan review and approval shall be required for a change of use, an expansion of a use or a more-intensive use when such change or expansion shall result in increased water supply, sewage disposal, stormwater runoff management, parking needs, or traffic generation, such determination to be made by the Building Inspector or Code Enforcement Officer. A building permit and certificate of occupancy shall not be issued for such uses or buildings without first obtaining approval from the Planning Board.

N/A (2) Approval required. Where site plan approval is required by this chapter, no building permit and, in the case of a change of use, no certificate of occupancy shall be issued by the Building Inspector until such a plan shall have been approved by the Planning Board. No certificate of occupancy shall be issued for such premises until all of the requirements of the Planning Board's approval, including any conditions attached thereto, shall have been met.

N/A (3) Continued conformance required. Continued conformance with such plan and requirements, including the maintenance of all improvements, shall be a condition of the continued validity of the site plan approval and the certificate of occupancy.

(4) Approval of revised plan. Revisions of such plans shall be subject to the same approval requirements as a new application, except to the extent those requirements are waived or reduced by the Planning Board.

C. DONE Preliminary conference with applicant. For all site plan applications which exceed the following thresholds, the first meeting with the Planning Board, prior to the submittal of an application, shall consist of a conference between the Planning Board and the applicant to advise on the feasibility of a project:

[Amended 5-9-2011 by L.L. No. 3-2011]

- (1) Residential projects consisting of 50 or more units to be served by private water and sewer supply;
- (2) Residential projects consisting of 250 or more units to be connected to municipal sewer and water supply; and
- (3) Nonresidential facilities consisting of 100,000 or more square feet of gross floor area. A preliminary conference is optional for all other applications. A fee will be requested for this service. The review and consultation will be non-binding.

D. Conceptual site plan. The Planning Board shall be limited to a review of the basic concept of the proposal to resolve problems the applicant may have with meeting the Town's requirements during the formal consideration process. The conceptual site design (sketch) plan shall show the following:

[Added 5-9-2011 by L.L. No. 3-2011 [1]]

- (1) An area map and a high resolution aerial photograph keyed to the real property maps, showing the parcel under consideration and all properties, subdivisions, roads, and easements within 500 feet of the

boundaries thereof. (NOTE: An example of an acceptable aerial photograph includes a photograph from Google Earth™ mapping service.)

- (2) A map of the site showing approximate location of:
  - (a) Lot lines;
  - (b) Approximate lot measurements; **SCALABLE FROM EXISTING SURVEY**
  - (c) Existing and proposed streets or other accessways;
  - N/A** (d) Proposed location of future roadway connections between the subject parcel and adjacent parcels;
  - (e) Location and dimensions of existing and proposed structures and paved areas;
  - (f) Proposed ingress and egress of the site; **SCALABLE FROM EXISTING SURVEY**
  - (g) Site topography; **BASIC SITE FEATURES ARE SHOWN**
  - (h) Significant natural and historic features, including floodplains, outcrops, soils, watercourses and water bodies, significant habitat areas, or known endangered species occurrences and wooded areas. In addition, agricultural districts, farm operations, sites nominated or on the state or national registers for historic places, sensitive archaeological areas, and coastal zone boundaries should also be shown;
  - (i) Photographs of the site and buildings thereon; and **BASIC SITE FEATURES ARE SHOWN**
  - (j) Any other similar descriptive data to clarify the proposed project.

- N/A** (3) A compilation of known environmental data in relation to the project site and in relation to property within 500 feet of the project site. The compilation shall consist of a narrative summarizing the known environmental data, and copies of any and all previous reports, studies, findings and documents, prepared by any person, consultant or agency. If the supporting reports, studies, findings and documents are in excess of 50 pages, it is preferred that this submission be made in digital form.
- (4) A digital copy of the conceptual site design (sketch) plan shall be submitted in PDF format.

*[1] Editor's Note: This local law also provided for the redesignation of former Subsections D through M as E through N, respectively.*

- E. Required site plans. A complete application for site plan approval shall be made in writing to the Planning Board and shall be accompanied by 12 copies of plans. Only complete applications for site plan review shall be considered for approval. Site plans shall be prepared by a licensed professional engineer, architect, land surveyor or landscape architect, shall refer to specific data sources, and shall include the following information:

**We motion to strike this requirement as no engineering, construction, or lot line changes of any kind are being made to site**

- (1) Application form: a completed application on forms prescribed by the Planning Board.
- (2) A location map, at a scale of 2,000 feet to the inch or larger, showing the applicant's entire property and all easements and streets and existing structures within 500 feet of the applicant's property as well as the Tax Map and section of USGS mapping.
- (3) Briefing document. The applicant shall submit a briefing document, which should be no more than five pages, addressing in narrative form the following issues:
  - (a) A description of the proposed project;
  - (b) *[2] A description of whether the site design includes the possibility for interconnections with adjoining sites and, if no such interconnection is provided, a thorough narrative as to why an interconnection is not feasible;*

*[2] Editor's Note: Former Subsection E(3)(b), regarding design philosophy and goals, was repealed 5-9-2011 by L.L. No. 3-2011. This local law also provided for the redesignation of former Subsection E(3)(c) through (e) as E(3)(b) through (d), respectively.*

- (c) An analysis of how the project complies with the requirements contained within this Chapter **155**, Zoning; and
- (d) An identification of any waivers or variances needed.

(4) Site plan. The detailed site plan shall show at least the following information:

- (a) Title of the drawing, including the name and address of the owner of record, applicant, and licensed professional(s) responsible for the preparation of such drawing, including seal and signature. Motion to waive Engineer's Sign and Seal as mentioned above.
- (b) North arrow, scale and date.
- (c) Boundaries of the property with surveyed dimensions.
- (d) Names of all owners of record adjacent to the applicant's property.
- N/A (e) Existing school district (if applicable), zoning district, and overlay district boundaries (if applicable), within 500 feet of the site's perimeter.
- N/A (f) Acreage of each distinct existing and proposed land use on the applicant's property, and the proposed density of each if residential uses are proposed.
- N/A (g) Grading and drainage plan showing existing and proposed contours with intervals of two feet extending 50 feet beyond the tract. If any portion of the parcel is within a one-hundred-year floodplain as determined by the Federal Emergency Management Agency (FEMA), the area will be shown and base flood elevations given.
- N/A (h) Location and boundaries of all existing natural land features on the property, including rock outcrops, isolated trees 12 inches or more in diameter at breast height (dbh) and all trees over 24 inches in dbh (whether isolated or in a forested area), existing vegetative and forest cover, orchards, hedgerows and other ornamental landscaping, stone walls, soil types and boundaries, active farmlands, visually prominent agricultural landscape features, such as fields, pastures, and meadows on knolls and hilltops, woodlands along roadways, property lines, and streams, steep slopes in excess of 15%, and water sources. Water sources include ponds, lakes, wetlands and watercourses, primary aquifers and primary aquifer recharge areas, floodplains, and drainage retention/detention areas. The plan shall show locally significant trees which include rare or unusual species, trees associated with historic events or persons, or trees that significantly contribute to a unique scenic viewshed.
- (i) Location of all existing buildings, structures, signs, and agricultural lands, on adjacent property within 100 feet of the subject lot lines.
- N/A (j) Location, proposed use, height, and setback measurements of all existing and proposed buildings, structures and signs on the applicant's property, including floor plans, and plans for exterior elevations, at a scale of 1/4 inch equals one foot, showing the structure's mass and architectural features, and indicating the type and color of materials to be used. A table indicating square footage of building areas to be used for a particular use, such as retail operation, office use, warehousing, or other commercial activity; maximum number of employees; maximum seating capacity, where applicable; and number of parking spaces existing and required for the intended use.
- N/A (k) Traffic flow patterns within the site, entrances and exits, the location of potential interconnections between the project site and adjoining sites, truck/commercial vehicle loading and service areas, curb cuts on the site and within 100 feet of the site, and all streets which are either proposed, mapped or built.
- N/A (l) Any cross-access easements, walkways and bicycle path opportunities associated with the project.
- (m) The location, design and construction materials of all off-street parking areas (open and enclosed, if any), including the number of parking spaces required and to be provided. The Planning Board shall encourage the provision of parking areas using alternative paving materials, such as pervious pavement or paving blocks where the interstices are filled with sod, or through parking reserve areas which may not be constructed until and unless demand is evident.

Parking lots are temporary, no additional paving is planned.

N/A

(n) The location, design and construction materials of all present and proposed walkways, bicycle paths and racks, benches, ramps, outdoor storage or display areas, retaining and/or landscaping walls and fences.

N/A

(o) A general and conceptual landscape plan showing proposed changes to existing natural land features. Trees to be saved shall be noted on site plans, and appropriate measures shall be outlined to protect the tree stock from damage during construction. More-precise landscaping plans may be required by the Planning Board during the review process, including size and type of plant material, and the number, size, types and locations of all trees, shrubs and ground covers to be added.

N/A

(p) The location, design and construction materials of all existing and proposed utility systems, including:

[1] Water supply system.

[2] Sewage disposal.

[3] Telephone, cable and energy systems, including electric, oil, gas, solar or other energy system.

[4] Storm drainage system, including but not limited to existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, manholes, and drainage swales.

(q) The location of fire and emergency accessways and zones, including the location of fire hydrants or of the nearest alternative water supply for fire emergencies.

(r) The location, type, and screening details for solid waste disposal facilities and containers.

(s) The proposed location, height, orientation, type of illuminating device, bulb type and wattage, and photometric data of all outdoor lighting fixtures.

(t) The location, height, size, materials, design, and illumination of all present and proposed signs and other advertising or instructional devices, as required in § 155-28.

We motion for a waiver / exemption of the noise ordinance based on the "transitory nature" of the event.

(u) Estimates of noise generation at the source and property line.

N/A

(v) Inventory and quantity of hazardous materials anticipated for on-site storage and/or use, if applicable.

N/A

(w) Plans for the disposal of construction and demolition, waste, whether on-site or at a New York State approved solid waste management facility.

N/A

(x) Parks and open space.

N/A

[1] General. In accordance with § 274-a of the Town Law, the Planning Board may require either the reservation of land for park or recreational purposes or payment of a fee to a trust fund to be used for purchase and/or development of recreational sites within the Town.

N/A

[2] Reservation of land. The Planning Board may require the reservation of land for a park or recreational purposes to be reserved on the plat, but in no case to be more than 10% of the gross area of the subdivision. The location of such reservation shall be in accordance with the Comprehensive Plan or otherwise where the Planning Board shall deem such reservation to be appropriate. In general, such reservations should have an area of not less than two acres.

N/A

[3] Payment of fee. Where the Planning Board deems that the reservation of land would be inappropriate, it may waive the requirement of land reservation on the condition (said condition to be incorporated as a requirement within the conditions attached by the Planning Board to site plan approval) that the applicant deposit a cash payment in lieu of land reservation with the Town Clerk. Such payment shall be placed in a trust fund to be used exclusively for the purchase and/or development of neighborhood sites for parks, playgrounds or other recreational purposes. Final approval is contingent on this fee.

N/A

[4] Subdivisions of a clustered design in which 75% of the development site will be perpetuated as open space by a homeowners' association shall be exempt the requirements of this subsection.

DUMPSTERS ARE  
NOT PERMANENT

**N/A** (y) For projects involving more than one phase, a site plan showing each phase of the project.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

(z) Proposed days and hours of operation.

(aa) Supporting materials. The following materials shall be submitted:

**N/A** [1] A copy of the deed to the property as most recently filed and/or a copy of the executed contract of sale.

**N/A** [2] A copy of each covenant, easement or deed restriction in effect or intended to cover all or part of the tract.

**N/A** [3] Enforceable map notes of stormwater drainage, utility rights-of-way, etc.

**Will provide special use permit** [4] Identification, and submittal when available, of all necessary permits from federal, state, county or local agencies, approvals required from said agencies for the project's execution, and proof of special permit and/or variance approvals if applicable.

[Amended 5-9-2011 by L.L. No. 3-2011]

**N/A** [5] Additional information. At the request of the Planning Board, any other pertinent information as may be necessary to determine and provide for the proper enforcement of specific provisions of this chapter shall also be provided.

**N/A** [6] Environmental review. An application for site plan review and approval shall also be accompanied by a short or full EAF, or a draft EIS, as required by the lead agency under the Environmental Conservation Law.

**N/A** (bb) Identification of ridgeline and steep slope protection elevations identified within § **155-41.1** of this chapter.

(5) A digital copy of the proposed site plan shall be submitted in PDF format.

F. The Planning Board may waive or allow deferred submission of any of the information required in Subsection **D** above, as it deems appropriate to the application. Such waivers shall be discussed in the briefing document to be submitted by the applicant. The Planning Board shall issue a written statement of waivers granted on a project. This statement shall be filed in the permanent record of the property.

**N/A** G. Standards for review and design. The purpose of good site design is to create a functional and attractive development, to minimize adverse impacts, and to ensure that a development project will be an asset to the community. To promote this purpose, the Planning Board, in reviewing site plans, shall consider the standards set forth below. Such standards are intended to provide a framework within which the developer must recognize and be responsive to the Town's rural, scenic and historic qualities, and all other elements of its community character, but which also allows the designer of the development to exercise creativity, invention and innovation. The Planning Board may require submission of alternative design and layout proposals based on the standards in this section.

**N/A** (1) The site design will be reviewed with consideration of the existing and planned development of contiguous lands and adjacent neighborhoods.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

**N/A** (2) The site design will seek to minimize material adverse effect upon the desirability of such neighborhoods for the uses contemplated by this chapter.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

**N/A** (3) The site design will be consistent with provisions of the Town of Marlborough Comprehensive Plan and its land use regulations and other local regulations. Existing violations of local laws and regulations shall entitle the Planning Board to withhold or suspend review of an application for site plan approval until the violation(s) are remedied.

**N/A** (4) The site design shall reflect an awareness of and sensitivity to the views, terrain, soils, plant life, and other unique qualities of the site. To the maximum extent practicable, development shall be located to preserve

the natural features of the site and to avoid wetland areas, steep slopes, significant wildlife habitats and other areas of environmental sensitivity. The placement and design of buildings and parking facilities shall take advantage of the site's topography, existing vegetation and other pertinent natural features and shall, to the maximum extent practicable, preserve and enlarge upon these assets for recreation, scenic, or conservation purposes.

N/A (5) Relationship of buildings and site to adjoining areas. Site plans involving nonresidential uses proposed adjacent to a residential district or residential uses shall be reviewed with regard to the impact of the development on such residential district or residential use. The Planning Board shall encourage the use of a combination of landscaping, buffers, berms, screens, visual interruptions, and common building materials to create attractive transitions between buildings of different architectural styles and uses.

N/A (6) Building design.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

- (a) Individual buildings shall relate to each other where practical and feasible in lot placement, scale, and height. In the event that adjoining properties or the area surrounding the new development include traditional structures or land development deemed of significance and value to community character, new individual buildings shall relate where practical and feasible to the lot placement, scale, height and other elements.
- (b) Rooftop and ground-level mechanical equipment shall be screened from public view to the maximum extent practicable.
- (c) New structures shall be sited and located to take advantage of solar access insofar as practical.

N/A (7) Parking and loading facilities. Parking and loading facilities shall be planned and developed in accordance with § 155-27. Parking areas should be placed at the rear and/or side of principal buildings so they are not visible from public roads. Where site limitations necessitate that parking areas be located adjacent to a public road, a berm, field stonewalls, solid fence or evergreen hedge at least 30 inches in height above grade at the time of planting shall be installed to screen the view of parking areas from the road or street. Existing vegetation, which is proposed for preservation, may also be used to screen the view of parking areas.

(8) Access.

N/A (a) All entrance and exit driveways shall be located with due consideration for traffic flow so as to afford maximum safety to traffic on public streets.

(b) Similar land uses shall provide, wherever practical, cross access between properties to reduce the number of curb cuts, limit the amount of traffic on the main arterial or collector street fronting the development, reduce turning movements onto state and county roads, and provide logical extensions of the local road system. The Planning Board may require individual developers to construct a site layout that facilitates cross access to adjacent sites.

(c) Similar land uses shall provide, wherever practical, joint access to arterials or collector streets fronting the development to minimize disruption of traffic flow, reduce potential points of conflict between through and turning traffic, and facilitate the control and separation of vehicles and pedestrian movement. The Planning Board may require individual developers to construct a site layout that facilitates future joint access in anticipation of future adjacent development.

(d) All buildings shall be reasonably accessible to emergency vehicles. If the Planning Board deems it necessary, it shall refer the application to the applicable emergency services providers for comment on the proposed access arrangements.

N/A (9) On-site circulation.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

- (a) On-site roadways, pedestrian walks and bicycle paths shall be designed to permit the safe, efficient and convenient movement of vehicles, pedestrians, and bicyclists on site and shall provide for safe connection with streets and adjoining properties where appropriate.

N/A

- (b) Landscaped and graded pedestrian walkways, shall be provided along the lines of the most-intense use, particularly from building entrances to streets, parking areas, and adjacent buildings, and shall be separated from motor vehicle circulation.
- (c) Handicapped persons. For any use to which the public is expected to visit, the plan shall make proper provision for buildings and site developments that are accessible to and functional for physically disabled persons, as required in the International Building Codes and other applicable state and federal laws.

N/A

(10) Drainage.

- (a) The proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns, protects other properties and public roadways, and mitigates water quality impacts to the greatest extent practical. Drainage plans shall be reviewed by the Town Engineer prior to approval.

[Amended 5-9-2011 by L.L. No. 3-2011]

N/A

- (b) Provision shall also be made for the protection or improvement of existing watercourses, channels and other drainage systems, on the lot or downstream from the lot, as needed to accept the proposed drainage discharge, based on sound design criteria under good engineering practice, taking into account the drainage requirements of the entire watershed in which the lot is located.

N/A

- (11) Erosion and sedimentation. Provision shall be made for control of erosion and sedimentation and for avoiding siltation of streams and wetlands, both during construction and upon completion.

[Amended 5-9-2011 by L.L. No. 3-2011]

- (12) Sanitation. Proper provision shall be made for the water supply and sewage disposal requirements of the proposed use. Central water supply and/or sewage disposal systems and private on-site systems shall be designed and constructed in accordance with applicable local, county and/or state law. In addition, provision shall be made for the collection, storage and disposal of solid wastes accumulated in connection with the proposed use and for control of litter by means of receptacles, fences or other means.

- (13) Fire protection. Proper provision shall be made for fire protection, taking into account any recommendations of the Fire District Board of Commissioners, and including the following:

- (a) Suitable location for and access to fire hydrants and/or fire ponds and other water storage.
- (b) Suitable access to buildings and storage areas for operation of fire protection vehicles and equipment.
- (c) Sufficient controls on traffic and parking to permit access by fire protection vehicles in emergencies.
- (d) Adequate circulation driveways within the lot, coordinated with access to other lots, to permit access by fire protection vehicles.

N/A

- (14) Lighting. The location, height, design, arrangement and intensity of outside lighting, including the illumination of signs, shall minimize glare. Such lighting shall also avoid creating hazards to traffic and shall conform to the neighborhood lighting patterns.

[Amended 5-9-2011 by L.L. No. 3-2011]

N/A

- (15) Signs. All signs shall comply with the sign regulations of § 155-28 of this chapter.

- (16) Noise. Structures shall be located, constructed, and insulated to prevent on-site noise from interfering with the use of adjacent properties. Similarly, buildings shall be situated to prevent off-site noise from intruding on new development. Methods for reducing noise shall be used where appropriate, and shall include fencing, walls, and natural buffers, such as berms and landscape plantings.

[Amended 5-9-2011 by L.L. No. 3-2011]

N/A

- (17) Landscaping and screening.

[Amended 5-9-2011 by L.L. No. 3-2011]

Port-A-Johns shown  
Location of pond, water station, and clear access shown

Motion for waiver / exemption

N/A

(a) The site plan shall integrate the various elements of site design, including landscaping, which preserve and enhance the particular features of the site and surroundings. All areas for off-street parking, vehicle loading, driveways, sidewalks and any other paved areas shall be suitably landscaped. If not disturbed by filling, grading, excavation or other construction activity, the landscaping may be left as natural terrain when having a character and vegetative cover that supports the overall landscaping plan.

N/A

(b) Landscape plantings of shrubs, ground cover, shade trees, perennials and annuals and other materials, such as rocks, water features, sculpture, walls, fences, paving materials and outdoor furniture, shall be encouraged to create pedestrian scale spaces and to maintain landscape continuity within the community. This shall be accomplished through the use of native plant and rock material.

N/A

(c) The preservation of existing landscape features such as wetlands and woodlots should be encouraged as a design.

N/A

(d) Landscaping should be considered for use to create boundaries and transitions between areas of differing development intensities as well as to separate areas of incompatible land uses. A buffer zone thickly planted with native trees and shrubs of sufficient width to entirely screen a nonresidential use from a neighboring residential use shall be considered. A buffer zone shall be provided on any residential development occurring adjacent to a farm as provided for under § 155-52.

N/A

(e) Open space shall be an integral part of the overall site design.

N/A

(f) Parking facilities shall be landscaped and screened from public view. To promote this purpose, the Planning Board shall consider the standards set forth in the Town of Marlborough Design Guidelines, as they may be adopted.

Hidden by bushes / foliage

(g) Solid waste facilities and containers, outdoor service areas, and loading docks shall be screened around their perimeter from the street and from other adjacent residential areas.

(h) All playground areas shall be reasonably screened from the view of the adjacent residential lots and streets.

H. Public hearing. The public hearing shall be conducted within 62 calendar days of the Planning Board's determination that the application is complete. The Planning Board, by resolution at a stated meeting, shall fix the place, date, and time of the public hearing. The Planning Board shall be responsible for publication of the public hearing notice in the official newspaper at least five days before the date of such hearing. This notice shall include a general description of the proposal which is the subject of the application and shall identify the applicant and the location of the proposal. Notice shall also be posted on the bulletin board of the Town Hall at least five days prior to the date of the hearing. The Planning Board shall mail notice of the hearing to the applicant at least 10 days before such hearing.

I. Planning Board action on site plan. Within 62 days of the receipt of a completed application for site plan approval or within 62 days of the close of a public hearing, whichever shall last occur, the Town Planning Board shall act on the site plan application.

(1) Action by resolution.

(a) The Town Planning Board shall act by resolution to either approve, disapprove, approve with conditions or approve with modifications the site plan application. A copy of the resolution shall be filed in the Town Clerk's office and mailed to the applicant within five business days of the Town Planning Board's action. A resolution of either approval or approval with modifications shall include authorization to the Town Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the submission requirements stated herein.

(b) If the Town Planning Board's resolution includes a requirement that modifications be incorporated in the site plan, conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the Planning Board's resolution shall state specific reasons for such decision. In such a case, the Town Planning Board may recommend further study of the site plan and resubmission to the Town Planning Board after it has been revised or redesigned.

(2) Submission requirements for stamping. After receiving site plan approval, with or without modifications, from the Town Planning Board, the applicant shall, within six months, submit six prints. The site plan submitted for stamping shall conform strictly to the site plan approved by the Town Planning Board, except that it shall further incorporate any revisions or other modifications required by the Town Planning Board and shall be accompanied by the following additional information:

N/A

- (a) A record of application for any and all necessary permits from federal, state and county officials.
- (b) Detailed sizing and final material specifications of all required improvements.
- (c) An estimated project construction schedule and, if a performance guaranty is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate.
- (d) A digital copy of the site plan submitted for stamping, including any revisions or other modifications required by the Town Planning Board, shall be submitted in PDF format.

(3) Effect of stamping by the Town Planning Board. Upon stamping and signing by the Chairman, the Town Planning Board shall forward a copy of the approved site plan to the Code Enforcement Officer/Building Inspector and the applicant. The Code Enforcement Officer / Building Inspector may then issue a building permit or certificate of occupancy if the project conforms to all other applicable requirements.

N/A

J. Reimbursable costs. Reasonable costs incurred by the Town Planning Board for professional consultation fees or other expenses in connection with the review of a proposed site plan shall be defrayed by the applicant. Such escrow-based reimbursable costs shall be in addition to the fees required in § **155-47** herein.

N/A

K. Expiration of approval. Site plan review and approval shall be void if construction is not started within one year and completed within two years of the date of the final site plan approval. Each of these respective periods of expiration may be extended in the Planning Board's discretion for up to two additional periods of one year each. The Planning Board's authority to extend the respective periods of expiration shall apply to any project which requested such an extension, in writing, filed with the Town no later than on or after January 1, 2008.

N/A

L. Performance bonds. The applicant may be required to post performance bonds pursuant to this chapter in sufficient amounts and duration to assure that all streets or other public places shown on the site plan shall be suitably graded and paved and that street signs; sidewalks; streetlighting standards; curbs; gutters; street trees; required improvements to existing streets and intersections; water mains; fire alarm signal devices, including necessary ducts and cable or other connecting facilities; sanitary sewers; and storm drains shall all be installed in accordance with standards, specifications and procedures acceptable to the appropriate Town departments.

N/A

M. Density. When a density calculation is to be made for the purposes of site plan review, it will be a net density calculation.

N/A

N. Required referral. Prior to taking action on the site plan, the Town Planning Board shall refer the site plan, when applicable, to the Ulster County Planning Board for advisory review and a report in accordance with §§ 239-1 and 239-m of the General Municipal Law.

## § 155-32. Special use permit.

[Amended 8-22-1994 by L.L. No. 2-1994; 9-14-2009 by L.L. No. 6-2009]

All special uses prescribed in § **155-12** of this chapter, or otherwise identified as special uses herein, shall be subject to review and approval of a special use permit by the Planning Board in accordance with the standards and procedures set forth in this section. A special use means one requiring a special use permit.

- A. All special uses shall be subject to the additional review and approval requirements of § **155-31** dealing with site plan review.
- B. Required fees. A complete application for site plan and/or special permit review and approval shall be accompanied by the applicable fees and escrow deposits in accordance with the fee schedule of § **155-47**, Development Fees. The Planning Board requires professional review of the application by its designated

planning, engineering, legal or other consultants, and such reviews are paid for by means of the escrow deposits.

C. Public hearing and notice.

- (1) The Planning Board shall not authorize any use requiring special permit approval without first holding a public hearing at which interested parties and citizens shall have an opportunity to be heard. The public hearing shall be conducted within 62 calendar days of the Planning Board's determination that the application is complete. The Planning Board, by resolution at a stated meeting, shall fix the place, date, and time of the public hearing.
- (2) The Planning Board shall be responsible for publication of the public hearing notice in the official newspaper at least five days before the date of such hearing. This notice shall include a general description of the proposal which is the subject of the application and shall identify the applicant and the location of the proposal. Notice shall also be posted on the bulletin board of the Town Hall at least five days prior to the date of the hearing.
- (3) The applicant shall mail copies of the public hearing notice, at least five days prior to the public hearing, to the owners of the property abutting that held by the applicant in the immediate area, whether or not involved in such application, and all other owners within 500 feet, or such additional distance as the Planning Board may deem advisable, from the exterior boundaries of the land involved in such application, as the names of said owners appear on the last completed assessment roll of the Town. Such notice shall be by certified mail, and, at the discretion of the Planning Board, the Secretary of the Planning Board or the applicant shall furnish proof of compliance with the notification procedure, all costs required and fees assessed by the Secretary of the Planning Board to be borne by the applicant.

N/A (4) If the land involved in any application lies within 500 feet of the boundary of any other municipality, the Town Clerk shall also transmit to the Municipal Clerk of such other municipality a copy of the official notice of public hearing thereon not later than the day after such notice appears in the official newspaper of the Town.

D. Disposition of application by Planning Board.

- (1) Within 62 days of the close of the public hearing, unless this time is extended by mutual consent of the applicant and Planning Board, the Planning Board shall act by resolution to approve, approve with conditions, approve with modifications, or disapprove such special use permit. The decision of the Planning Board shall be certified by the Chairman of the Planning Board, filed in the Town Clerk's and Building Inspector's offices, and mailed to the applicant at the address indicated on the application within five days of the Planning Board's decision.
- (2) A resolution of either approval, approval with conditions, or approval with modifications will include authorization to the Planning Board Chair to sign the special use permit application upon the applicant's compliance with the conditions or requirements stated in the approval. If the Planning Board's resolution includes a requirement that modifications be incorporated in the special use permit, conformance with these modifications shall be considered a condition of approval. If the special permit is disapproved, the Planning Board's resolution shall be accompanied by a statement, in writing, giving the grounds for denial.

E. General consideration for special use permits. In permitting any special use, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general in the Town and of the immediate neighborhood in particular. The Planning board may require modifications to development proposals, submission of alternative design and layout proposals and may attach reasonable conditions and safeguards to eliminate or minimize potential impacts as a precondition of its approval. The Planning Board, after public notice and hearing, may approve the issuance of a permit, provided that it shall find that all of the following conditions and standards have been met:

- (1) Traffic access. All proposed traffic access shall be adequate but not excessive in number, adequate in width, grade and alignment and visibility, and sufficiently separated from street intersections and other places of public assembly and shall meet other similar safety considerations.

(2) Parking. Parking areas will be of adequate size for the particular use, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

N/A (3) Landscaping and screening. All parking and service areas shall be reasonably screened from the view of adjacent residential lots and streets, and the general landscaping of the site shall be in character.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

N/A (4) Character and appearance. The character and appearance of the proposed use, buildings, structures, outdoor signs and lighting shall be the character of the surrounding neighborhood and that of the Town of Marlborough.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

(5) Historic and natural resources. The proposed use shall be designed and shall be carried out in a manner that protects historic and natural environmental features on the site and in adjacent areas.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

(6) Level of service. The level of services required to support the proposed activity or use is or will be available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities and protection from pollution of surface water or groundwater.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

(7) Emergency services. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire, police, and other emergency service protection.

N/A (8) [1]In or adjacent to a residence district. In addition to the above criteria, in the case of any use located in or directly adjacent to a residence district:

(a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, the size of the site in relation to the use, its site layout and its relation to existing and future access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residence district or conflict with the normal traffic of the neighborhood.[2]

[2]     Editor's Note: Former Subsection E(8)(b), regarding the location and height of buildings and walls, was repealed 5-9-2011 by L.L. No. 3-2011.

[1]     Editor's Note: Former Subsection E(8), Nuisances, was repealed 5-9-2011 by L.L. No. 3-2011. This local law also provided for the redesignation of former Subsection E(9) and (10) as E(8) and (9), respectively.

(9) The use of best management practices in the protection of streams, steep slopes, wetlands, floodplains and other natural features.

F. Additional safeguards and conditions. The Planning Board shall impose additional conditions and safeguards upon the special permit as may be reasonably necessary to assure continuing conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced.

G. Environmental consideration. The proposed use shall be subject to review pursuant to the New York State Environmental Quality Review Act (SEQR).

[Amended 5-9-2011 by L.L. No. 3-2011]

N/A H. Performance bonds. The applicant will be required to post performance bonds pursuant to this chapter in amounts and duration to ensure that all public improvements as per the approved final site plan can be completed.  
 [Amended 5-9-2011 by L.L. No. 3-2011]

N/A I. The Planning Board may require that an as-built certified survey be provided to the Town Code Enforcement Officer and/or the Planning Board Secretary to be filed with the official record.  
 [Added 5-9-2011 by L.L. No. 3-2011[3]]

[3] *Editor's Note: This local law also provided for the redesignation of former Subsections I through N as J through O, respectively.*

- J. Existing violations. No permit shall be issued for a special use for a property upon which there is an existing violation of this chapter or other land use regulations of the Town of Marlborough, and the Planning Board may withhold or suspend review pending remedy of the violation(s).
- K. Waiver. The terms and conditions of a special permit may be modified by application to the Planning Board in the same manner as an application for a new special permit. In the event that the modification sought is deemed insubstantial by the Planning Board, it may waive one or more of the requirements of this section.
- L. Expiration of special permits. A special permit shall be void if construction is not started within one year and completed within two years of the date of the final site plan approval, except that such special permit approval may be renewed by the Planning Board at its discretion. Each of these respective periods of expiration may be extended in the Planning Board's discretion for up to two additional periods of one year each.

[Amended 5-9-2011 by L.L. No. 3-2011] Single submission with no expiration

- M. Revocation of special permits. Special permits may be revoked by the Building Department / Code Enforcement Officers in the event of substantial deviation from approved special permit conditions, and the use allowed by special permit shall terminate immediately.
- N. If the Planning Board indicates that all applicable requirements have been met and approves the special use permit, it shall approve issuance of the permit for which application has been made, including such conditions and safeguards to the permit as have been required. The Building Department/Code Enforcement Officers shall not issue the permit for which the application has been made until the provisions of § 155-32 have been met.
- O. Required referral. Prior to taking action on the site plan, the Town Planning Board shall refer the project's site plan to the Ulster County Planning Board for advisory review and a report in accordance with §§ 239-1 and 239-m of the General Municipal Law.

[Amended 5-9-2011 by L.L. No. 3-2011]

## § 155-32.1. Display of motor vehicles.

[Added 8-25-2014 by L.L. No. 1-2014]

This section shall apply in all zoning districts. No premises may be used for the display for sale of any motor vehicle, unless the premises are covered by current and valid local approvals under the provisions of this chapter for the commercial display and sale of motor vehicles. Except, however, an owner of premises may display for private sale one motor vehicle which is in the title of an owner of the premises.

## Article VII. Nonconforming Uses and Structures

[Amended 11-25-2002 by L.L. No. 8-2002; 9-14-2009 by L.L. No. 6-2009]

### § 155-33. Continuation of use.

- A. The following provisions shall apply to all buildings and/or uses legally existing on the effective date of this chapter (which buildings and/or uses do not conform to the requirements set forth in this chapter), to all buildings and/or uses that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof, and to all conforming buildings housing nonconforming uses. No nonconforming use, building or other structure shall be deemed to have existed on the effective date of this chapter unless it was lawfully maintained and occupied on such date and, if such nonconformity is a use, provided that such use has not been discontinued within the meaning of § 155-34A(4).
- B. It is the intent of this section that nonconformities are not to be expanded, so as to ensure eventual compatibility of neighboring land uses and that the existence of any nonconformity shall not of itself be considered grounds for the approval of a variance for any other property.