

Chapter 22.00 Special Zoning

22.10 Site Plan Review and Approval

(Adopted: Article XVII, February 27, 2002 Special Town Meeting)

1.1 Applicability

No permit to build, alter or expand any nonresidential building, structure or use of land where such construction shall exceed a total gross floor area of 675 square feet, exceeds \$25,000.00, or require changes or alterations to a parking area, shall be issued by the Building Commissioner until he or she shall have received from the planning board a written statement of site plan approval by the planning board in accordance with the provisions of this section.

(Amended: Article XXII, June 9, 2003 Annual Town Meeting)

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

Agricultural structures are exempt. Normal maintenance is also exempt. A building wholly or partially destroyed may be rebuilt without recourse to this section if rebuilt without change to the building footprint or the square footage of usable space.

(Amended: Article XXII, June 9, 2003 Annual Town Meeting)

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

The Building Commissioner shall enforce the fulfillment of any conditions which the Planning Board may impose.

1.2 Board of Selectmen or Board of Appeals Referrals

When in accordance with the Rochester Bylaws, the Board of Selectmen, the Zoning Board of Appeals or other town board shall refer an application for a special permit to the planning board for review and comment, the Planning Board's written report to the Board of Selectmen or the Board of Appeals shall include, but not be limited to, all of the findings and determinations the Planning Board would make in reviewing a site plan under this section to the extent they are applicable to the information contained in the application for special permit.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

1.3 Grounds for Site Plan Denial

The planning board shall reject an application for site plan approval for the following reasons:

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

1. Noncompliance with zoning bylaw

2. Incomplete application, including the application form, the accompanying site plan map and supporting documentation, or the application fee as requested by the planning board.
3. The Site Plan is so intrusive on the needs of the public in one regulated aspect or another that rejection by the Planning Board would be tenable because no form of reasonable conditions can be devised to satisfy the problem with the plan.
4. The applicant has not met the standards for review and reasonably addressed the conditions outlined in Section 1.4.

1.4 Standards for Review

(Amended: Re-codified, Article XXVIII, October 25, 2005 Special Town Meeting)

Site plan approval is designed to provide a balance between landowner's rights to use his land with the corresponding rights of abutters and neighboring landowners to live or operate businesses without undue disturbance (e.g. noise, congestion, smoke, dust, odor, glare, stormwater runoff, etc.). Additional objectives include:

1. Preservation of the rural atmosphere of Rochester including preserving its natural and historic features and encouraging compatible business development in appropriate locations while also assuring landowner of fair use of their property.
2. The creation of a better and safer living environment and the enhancement of Rochester's man-made resources.
3. Saving and re-using farm and woods roads and stonewalls as lot boundaries where possible.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

4. Siting buildings on the edges of fields or next to them (septic systems and wells can be set in fields),

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

5. Pruning and selective cutting instead of clear-cutting undeveloped land, ensuring that there is screening and privacy between lots, and avoid all but the absolutely necessary clearing of trees and other vegetation.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

Site Plan approval shall be granted upon determination by the Planning Board that the following considerations have been reasonably addressed by the applicant. The Planning Board may impose reasonable conditions, at the expense of the applicant, to secure

this result. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and storm water drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the site plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points and other aspects of the development, so as to:

6. Minimize the volume of cut and fill, the number of removed trees 12" 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;
7. Maximize pedestrian and vehicular safety both on the site and egressing from it
8. Minimize obstruction of scenic views from publicly accessible locations
9. 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;
10. Minimize glare from headlights through plantings or other screening; minimize lighting intrusion through use of such devices as cut-off luminaries confining direct rays to the site, with fixture mounting not higher than 20 feet;
11. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways;
12. Minimize contamination of groundwater from on-site wastewater disposal system or operations on the premises involving the use, storage, handling, or containment of hazardous substances.
13. Minimize changes in maximum ground water elevations which may adversely impact surrounding properties including but not limited to residential wells and to cranberry bogs.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

14. Conform with State and local sound regulations as amended from time to time.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

1.5 Pre-Submission Conference

Prior to submitting a Site Plan, an applicant shall meet informally with a technical review committee consisting of the following: Town Planner, Conservation Agent, Highway Surveyor, Regional Sanitarian and Building Commissioner. The purpose of said meeting is to review the applicant's conceptual plans for a property and provide preliminary comment prior to incurring significant engineering design expense. This step is intended to stream-line the permit process. Participation of consultants for the town may also be valuable at such a meeting and the applicant may choose to pre-fund Planning Board engagement of consulting review capability for this meeting. The applicant should request such a meeting through the Town Planner.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

The applicant shall also meet informally with the planning board at a regular public meeting to review the information the applicant must submit and determine the required minimum Site Plan Review fee. The Planning Board shall advise the applicant in writing of the amount of the application fee and minimum Site Plan Review fee and any exceptions with respect to the site plan details under Section 1.10, within twenty days of the pre-submission meeting. Any technical services required to assist the planning board in preparing its written response shall be included as part of the application fee under Section 1.13.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

The Planning Board may, taking into consideration the size and impact of the proposed project, waive any of the requirements in this section.

1.6 Site Plan Approval Application Filing

An applicant for Site Plan Approval shall file an application and Site Plan with the Planning Board accompanied by 15 copies of the Plan and any supporting documents, the application fee and minimum Site Plan Review fee as required by the Planning Board. On the same day, the applicant shall file a copy of the application and site plan with the Town Clerk. The Town Planner or Agent of the Planning Board shall then review the submitted materials to confirm that the application is complete pursuant to the submission requirements in this section. The date of submission to the Town Clerk shall be considered the date of receipt by the Planning Board. Such application and site plan shall include the elements on which the Planning Board is to make findings and determinations as provided in this section, and shall also include

information as to the nature and extent of the proposed use structures, and such further information as the Planning Board shall reasonably require by rule or regulation in a Site Plan Review Manual.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)
(Amended: Article 8, November 25, 2013 Special Town Meeting)

Applications for a building permit shall not be filed prior to having received site plan approval under the provisions of this bylaw. In subsequent applications concerning the same subject matter, the Planning Board may waive the filing of plans and documents to the extent they duplicate those previously filed.

The planning board may, following a duly advertised public hearing, adopt or amend a Site Plan Review Manual to provide further guidance to both applicants and the planning board in the preparation, review and approval of site plan approval applications. Copies of any adopted manual shall be filed with the town clerk.

1.7 Relationship to Subdivision Regulations

Site plan approval issued hereunder by the planning board shall not be a substitute for compliance with the Rules and Regulations Governing the Subdivision of Land in Rochester or the Subdivision Act as they may apply to an application submitted hereunder. The Planning Board, by granting site plan approval, is not obligated to approve any definitive plan nor reduce any time periods for the Planning Board's consideration under the Subdivision Control Act. In order to facilitate processing, the Planning Board may accept a combined plan and application, which shall satisfy this section, the Rules and Regulations Governing the Subdivision of Land in Rochester, and the Subdivision Control Act.

1.8 Referrals to Town Boards/Commissions

The Planning Board shall, within five business days of receipt of the site plan application, transmit a copy of the application and site plan to each of the following town committees, departments, commissions and boards for review and comment: Conservation Commission; Board of Health; Building Commissioner, Highway Surveyor; Fire Chief, and Police Chief. Other committees, departments and commissions may be requested to review site plan applications and site plans if the planning board feels such review will help in their deliberations.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

The Conservation Commission and other agencies designated by the Planning Board shall consider the same and submit a final report

thereon with recommendations to the Planning Board. The Conservation Commission shall review the application with particular reference to the Wetlands Protection Act and the Rochester Wetlands By-Law (Chapter 23.30 of the Zoning By-Law) and shall recommend as to the advisability of granting the site plan approval and as to the restrictions which should be imposed upon the development as a condition of such permit.

The Planning Board shall not make a finding and determination upon an application until it has received the final report of the conservation commission and/or other agencies designated by the Planning Board thereon, or until twenty-one days shall have elapsed since the transmittal of said copies of the application and site plan to the Conservation Commission and other agencies designated by the Planning Board without such report being submitted. Failure of a commission or agency to report within the allotted time shall be interpreted as non-opposition to the submitted Site Plan.

1.9 Procedures and Decision

1. Uses As of Right

A Site Plan for a use available as of right shall be reviewed by the Planning Board so as to provide notification of the decision thereupon to the applicant within sixty (60) days of its receipt. Such period may be extended upon the written request of the applicant. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit shall be issued by the Building Commissioner without the written approval of the site plan by the Planning Board, or unless sixty (60) days lapse from the date of the submittal of the site plan without action by the Planning Board.

2. Uses Available by Special Permit

A Site Plan for a use available by special permit shall be reviewed by the Planning Board so as to provide notification of the decision thereupon to the applicant within sixty (60) days of its receipt. Such period may be extended upon the written request of the applicant. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit shall be issued by the Building Commissioner and no use of a property permitted under a Special Permit shall commence prior to the receipt of: (1) a special permit from the special permit granting authority; and (2) the written approval of the site plan by the Planning Board, or unless sixty (60) days lapse from the date of the submittal of the site plan without action by the Planning Board.

(Amended: Article 27, May 21, 2018 Annual Town Meeting)

3. Decision

The Planning Board may make the following determinations with regard to a site plan:

- a. The Planning Board shall approve an application if said Board finds that the proposed development is in conformance with this bylaw. In granting approval of an application, the Planning Board may impose conditions, limitations and safeguards which shall be in writing and which shall be a part of such approval.
- b. The Planning Board shall reject a site plan for the reasons set forth in section 1.3.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

In the event the Planning Board approves a site plan application under these provisions, any construction, reconstruction, substantial exterior alteration, or addition shall be carried out in conformity with any mitigating conditions, modifications and restrictions, subject to which the board shall have made its findings and determination and only in conformity with the application and site plan on the basis of which the findings and determinations are made.

Minor changes to the approved site plan may be submitted to the Building Commissioner for approval. All requests for minor changes shall, within five days of receipt, be referred to the Planning Board. The Planning Board at its next regular or special meeting will evaluate the proposed changes against its previous findings under this section to determine if it is major or minor and will advise the Building Commissioner of its decision within five days of the meeting. If the change is minor, the Building Commissioner is authorized to approve the change. If the change is considered to be major, resubmission of an application for Site Plan Review and Approval will be required.

Any building, stationary equipment, reconstruction or expansion not approved by the Building Commissioner or the Planning Board shall be ordered halted and fully removed.

The approval of a site plan application, or modification or amendment thereof, shall remain effective for a period of two years commencing on the filing date of the decision (either directly or by inaction) with the Town Clerk, unless prior to the expiration of such two-year period, the applicant makes substantial efforts to build in accordance with the approved site plan, or unless, upon a written request from the applicant the Planning Board votes to extend the time period for a period not to exceed one additional year.

A Site Plan Review and Approval decision shall not constitute a special permit where such special permit is required to establish or undertake a use.

Persons aggrieved by a site plan review decision may appeal to the board of appeals pursuant to the provisions of M.G.L., Chapter 40A Section 15; thereafter a person aggrieved by the board of appeals decision may appeal to court under the provisions of M.G.L, Chapter 40A Section 17.

No permit, or any extension, modification, or renewal thereof issued pursuant to this section shall take effect until the Town Clerk certifies that twenty days have elapsed and no appeal has been filed, or that such appeal has been dismissed or denied.

1.10 Site Plan Details

The Planning Board may, taking into consideration the size and impact of the proposed project, waive any of the requirements in this section.

Each application for site plan approval shall be accompanied by a site plan in eight copies, or such number as the Planning Board may specify at the Pre-Submission Meeting, of the entire tract under consideration for development. The following information shall be submitted on one or more site maps and in writing where appropriate.

Except where waived by the Planning Board because of unusually simple circumstances, any site plan shall be prepared by a licensed engineer, landscape architect or architect for general locations

Except where waived by the Planning Board because of unusually simple circumstances, topographical and boundary survey information on the site plan shall be signed and sealed by a licensed land surveyor.

Except where waived by the Planning Board because of unusually simple circumstances, all elements of design, which shall include drainage, pavements, curbing, walkways, embankments, horizontal and vertical geometrics, utilities and all pertinent structures, drawings shall be signed by a licensed professional engineer.

1. General

Date of site plan. All revisions shall be noted and dated.

Title of development, north arrow, scale, Assessor's map and lot number, name and address of record owner, name and address and certificate of agency if applicant is not owner, and name, address,

license number and seal of person preparing the site plan. If the owner of record is a corporation, the name and address of the president and secretary shall be submitted with the application.

A scale of 1" = 20', 1" = 40', or 1" = 60', whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to nearest ten seconds. The error of closure shall not exceed one in ten thousand.

The names of all owners of record of all abutting property and those within three hundred feet of the property line.

Zone boundaries and Overlay Districts shall be shown on the site plan as they affect the parcel. Adjacent zone districts or Overlay Districts within three hundred feet also shall be indicated. Such features shall be shown on a separate map or as a key map on the detail map itself.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

Boundaries of the property lines and lines of streets, lot reservations, easement and areas dedicated to public use, including grants, restrictions and rights-of-way.

Key map showing the location of the tract with reference to surrounding areas and existing street intersections.

All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with any other public street.

Existing contours with intervals of two feet where slopes are more than three percent but less than fifteen percent, and five feet when fifteen percent or more, referred to US Coast and Geodetic datum, are to be indicated by a dashed line. Where any changes in the contours are proposed, finished grades should be shown as solid lines.

If any areas fall within the 100-year flood plain as delineated on the Flood Insurance Rate Maps for the Town of Rochester, the area will be shown and base elevations shown.

The location of the consecutively numbered flags denoting wetland resources shall be shown on the plan.

Location of existing rock outcrops, general soil types (including limitations as noted in "Soils and their interpretations for Various Land Uses" as prepared by the U. S. Department of Agriculture), high points, vistas, watercourses, depressions, ponds, marshes,

wetlands, flood plain designations as shown on the Flood Insurance Rate Maps for the Town of Rochester, wooded areas and major trees (12" caliper or over) and other significant existing features including previous flood elevations of watercourses, pond and marsh areas as determined by survey.

Location of existing buildings, which shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc. with spot elevations of such structures. Structures to be removed shall be indicated in dashed lines.

All structures or significant changes in topography within fifty feet of the property lines.

All stonewalls, farm and woods roads.

All calculations necessary to determine conformance to bylaw regulations.

Acreage of tract to nearest tenth of an acre.

Place for signature of Chairman of Planning Board or Planning Board Agent on all plans and/or documents to be approved by the Planning Board.

Such other information as may be required to show that the details of the site plan are in accordance with applicable standards of the zoning bylaw.

2. Buildings and Stationary Equipment

The proposed uses of land, buildings and stationary equipment and proposed location of buildings and stationary equipment including proposed grades.

Such features shall be shown on a separate drawing where deemed appropriate by the Building Inspector.

Floor space of all buildings also shall be indicated.

The location, housing type and density of land use to be allocated to parts of the site to be developed.

Layout of proposed buildings or structures, including elevations plan and measurements as appropriate for easy interpretation. The type and color of materials to be used shall be indicated.

The location, type and screening details for all waste disposal containers shall be shown.

Sketches as appropriate to indicate the visual impact on the community.

Location of signs.

Height of buildings, including relationship to existing and proposed grades.

3. Landscaping

A landscape plan showing all existing natural features, trees, forest and water resources and proposed changes to these features including size and type of plant material. Water resources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage detention/retention areas.

4. Utilities and Drainage

Location of all existing storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and direction of flow, and if any existing utility lines are underground, the estimated location of any said underground utility lines shall be shown.

The location of all proposed water lines, valves or hydrants and all sewer lines or alternative means of water supply of wastewater disposal and treatment in conformance with the applicable standards of the Town of Rochester and for the appropriate utility.

The location of the groundwater table in the vicinity of any proposed septic field, leaching catch basin, or drainage detention/retention area.

Proposed storm water management proposals shall conform to the Storm Water Management section of the Planning Board Rules & Regulations. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

Plans to prevent the pollution of surface or groundwater, erosion of soil during and after construction; excessive runoff, excessive rising or lowering of the water table; and the flooding of other properties, as applicable.

The proposed location, height, direction of illumination, bulb type, power and time of proposed outdoor lighting and methods to eliminate sky glare and glare onto adjoining properties must be shown.

The Planning Board may require analysis in comparison with a specified alternative where warranted by large or complex applications.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

5. Traffic and Parking

All means of vehicular access for ingress and egress to and from the site onto public street showing the size and locations of driveways and curb cuts, including the possible organization of traffic channels, acceleration and deceleration lanes, additional width and any other device necessary to prevent a difficult traffic situation.

The applicant shall prepare a circulation study both within the site and as it may affect the surrounding areas, including estimates of total automotive trips generated, peak hour demand, present and anticipated traffic volumes on adjoining streets, existing street capacities and other elements which may influence and be influenced by the development,

A traffic impact study shall consider the following:

1. Analysis of roadways which may be influenced by the project. These roadways can be considered as adjacent roads and major intersections.
2. The analysis shall be completed for the estimated year of completion, or in the case of phased developments, for the first phase, with the understanding that each subsequent phase shall require an independent analysis.
3. Analytical efforts shall consider the following:
 - Safety including accident data, sight distances, roadway conditions, etc.
 - Capacity analysis using Transportation Research Board Report No. 209.
 - Existing volumes (traffic counting).
 - Site-generated and future traffic.
 - Planned transportation improvements.

The location and design of any off-street parking areas or loading areas showing the size and location of bays, aisles, barriers and proposed plantings.

The total ground coverage by structures and impervious surfaces shall be identified and measured.

All proposed streets and profiles including grading and cross sections showing width of roadway and location and width of sidewalk according to the standards of the Town of Rochester

The Planning Board may require analysis in comparison with a specified alternative where warranted by large or complex applications.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

6. Open Space – Maintenance

The location and size of common open space and the form of organization proposed to own and maintain such common open space.

A copy of any covenants, deed restrictions or exceptions that are intended to cover all or any part of the tract.

All proposed easements.

The proposed screening, landscaping and planting plan, including details of types of planting.

A survey prepared by a licensed surveyor of the Commonwealth of Massachusetts shall accompany the site plan and shall show the boundaries of the parcel and the limits of all proposed streets, recreation and conservation areas and other property to be dedicated to public use.

1.11 Special Provisions for Phased Developments

In the case of plans which call for development over a period of years, a schedule shall be included in the application showing the proposed times within which each section of the development may be started.

The proponents of a phased development shall include assurances that each phase could be brought to completion in a manner, which would not result in an adverse effect upon the town as a result of termination at that point.

All site plans previously approved by the planning board shall be submitted each time a new plan or section is submitted for approval.

1.12 Endorsement of Site Plan

After approval by the planning board and subject to the satisfaction of any conditions of approval, a mylar or linen print of all approved site plan maps shall be submitted for signature and filing; all information thereon shall be in black India ink.

1.13 Application Fee

The application fee is specified in Section 6 of the Rules & Regulations Governing the Subdivision of Land. The application fee shall be submitted in check form and made payable to the Town of Rochester. Other related fees shall also be submitted in check form and made payable to the appropriate entities, as directed by Planning Board staff.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

(Amended: Article 7, November 25, 2013 Special Town Meeting)

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)

(Amended: Article XXIV, June 9, 2003 Annual Town Meeting)

1.14 Site Plan Review Fee

1. Minimum Review Fee Deposit

The minimum review fee shall be the sum of estimates from the professional services described in Subparagraph 2, below. The Planning Board will use these services in its Site Plan review and evaluation process as established during the Pre-Submission Conference described in paragraph 1.5 above. The Site Plan Review fee system is intended to encourage the applicants to submit complete, accurate and thorough applications and supporting materials.

The minimum Site Plan Review fee shall be submitted by the applicant at the same time the application and site plan are submitted to the Planning Board. The minimum review fee deposit shall be submitted in check form and made payable to the Town of Rochester. If the Planning Board finds that the amount of the deposit is not sufficient to cover the actual costs incurred during the Site Plan Review Process, the applicant shall be required to submit additional funds to cover said costs. Failure to submit such additional funds shall be deemed a violation of these regulations and shall be deemed reason to deny approval of the application. Once final review

of the project is complete, based on the conditions of the Site Plan Review Decision, any remaining funds in the account shall be returned to the applicant upon a majority vote of the Planning Board.

(Amended: Article XXVIII, October 24, 2005 Special Town Meeting)
(Amended: Article 7, November 25, 2013 Special Town Meeting)

2. Costs Covered by the Review Fee

The review fee shall be applied to all costs associated with the complete review of the Site Plan application and supporting materials as well as any post-approval inspection and reports, as determined by the Planning Board. This shall include, but not be limited to the use of engineering or other land-use consultants, professional planners; registered professional engineers, architects, or landscape architects; attorneys or other professional consultants to advise the Board on information presented by the applicant or the applicant's representatives on any and all aspects of the site plan.

Retention by the Board of outside consultants in connection with review under this by-law shall be in accordance with the provisions of Massachusetts General Laws, Chapter 44, Section 53C.

(Amended, Article 7, November 25, 2013 Special Town Meeting)

3. Planning Board Regulations

The Planning Board, following a public hearing, may adopt, and from time to time amend, procedures for establishing fees including costs for in-house processing and review and the engagement of outside consultants.

(Amended, Article 7, November 25, 2013 Special Town Meeting)

1.15 Expiration

A site plan review approval granted under this section shall lapse within two (2) years, not including such time required to pursue or await the determination of an appeal from the grant thereof or any other permit or license issued in connection therewith, if a substantial use thereof has not sooner commenced, or in the case of a permit for construction, if construction was not begun by such date. This time period may be extended for an additional one (1) year period at the discretion the Planning Board, provided an application for said extension was filed prior to the expiration of the first two (2) year term."

(Amended Annual Town Meeting May 21, 2012, Article 11)