

NONRESIDENTIAL SITE PLAN REVIEW REGULATIONS

TOWN OF ACWORTH, NEW HAMPSHIRE
ADOPTED MAY 27, 2009
ACWORTH PLANNING BOARD

Section 1: Authority

Pursuant to the authority vested in the Acworth Planning Board by the voters of the Town of Acworth at the Town meeting on March 14, 1978, and in accordance with the provisions of New Hampshire Revised Statutes Annotated, 674: 43-44 as amended, the Acworth Planning Board adopts the following rules governing the review of site plans for nonresidential and multifamily development, expansion, or change of use in the Town of Acworth, New Hampshire.

Section 2: Purpose

The purpose of the Site Review Procedure is to protect the public health, safety, and welfare; to promote balanced growth; to prevent premature and uncoordinated development of land without the adequate provision of public services and facilities; to ensure sound site utilization; to avoid development which may result in negative environmental impacts; to guide the character of development; and any other purpose permitted or required pursuant to RSA 674:44.

The Site Review Procedure in no way relieves the owner, developer, agent, or other individual from compliance with the Zoning Ordinance, Subdivision Regulations, or any other law, ordinance or regulation pertaining to the proposed development.

Section 3: Applicability

A. All non-residential uses of land, even if no structures are proposed, and all multifamily dwellings shall require site plan approval prior to development, expansion, change of use or issuance of a building permit. The Planning Board shall make the final decision as to the application of these regulations to any proposed development, change or expansion of a use.

B. One and two-family dwellings are specifically excluded from these requirements.

C. Nonresidential uses on tracts that also support a residence shall be subject to these regulations.

D. Agricultural buildings and structures shall not be subject to site plan review provided the total footprint of the buildings and structures is less than 2000 sq. ft. and a maximum height of 35' is not exceeded.

Section 4: Definitions

Except as provided herein, the definitions contained in the Acworth Zoning Ordinance and Subdivision Regulations shall apply to the Site Plan Review Regulations where applicable, and the more stringent of the two shall apply in cases of contradictory meaning.

A. Agricultural means of or pertaining to farms and farming as defined in RSA 21:34-a.

- B. Development means any construction or non-agricultural grading activities.
- C. Multifamily means, per RSA 674:43 I, having more than 2 dwelling units.
- D. Nonresidential means not pertaining to a dwelling unit or units.
- E. Residential means of or pertaining to a dwelling unit or units.
- F. Site means location and area of development.

Section 5: Procedure for Planning Board Site Plan Review

A. Application for Site Plan Review:

1. Application shall be made on forms provided by the Planning Board and shall address all the requirements of Sections 6 -8 herein. Plan Review Procedure shall conform to the procedural requirements for application for Major Subdivision as found in the Town of Acworth Subdivision Regulations, RSA 674:43 and 676:4, excepting however that both the Preliminary Conceptual Consultation and the Design Review Phase shall be optional. Signing and recording of the Plan shall only be required when the Board has required submission of a mylar for the plan.
2. Upon receipt of an application for site plan review, the Board shall determine if the development as proposed could reasonably be construed as having the potential for regional impact as described in Section 2.5 of the Town Subdivision Regulations and proceed according to that section.
3. When a special exception or variance is required to comply with the zoning ordinance, the applicant shall first obtain the special exception or variance before applying for site plan approval. If any condition imposed by the Zoning Board of Adjustment approval conflicts with any requirement contained in these Regulations, the provision which imposes the greater restriction or higher standard shall be controlling, except to any extent that the Planning Board has granted a waiver from these Regulations under Section 8.
4. When both subdivision and site plan approval are required for a proposed development, the Board may hold the Site Plan Review hearing at the same time as the hearing required by the subdivision regulations.
5. Procedure includes provision for on-site visits by the Planning Board or its designee. Failure to allow such inspection is grounds for denial of the application.

B. Notice of Action: Following site plan review by the Board as set forth above, the Board shall notify the applicant in writing by means of a Notice of Action, sent by certified mail, of its action on the final site plan. In case of disapproval, the Board shall clearly set forth in the Notice of Action the reasons for its action, with specific reference to the standards contained in these regulations. The Notice of Action for an approval shall set forth the following: (1) A description of the approved site plan indicating title, date, project number, and engineer; (2) A description of all specific conditions required by the Board that are in addition to the General Requirements of these Regulations; (3) A description of any waivers granted by the Board under Section 8; (4) Any requirements for off-site improvements, as provided in Section 8; (5) A description of land, if any, to be dedicated to widen existing streets; (6) All agreements, if any, between the Applicant and Board concerning matters not required by these Regulations, but to be performed by the Applicant; (7) In the case of conditional approvals, a list of all conditions, including other permits or approvals to be obtained, and whether or not a public hearing will be required, under RSA 676:4, II, (I); and (8) Any other provisions deemed necessary by the Board.

The approved site plan and all representations contained thereon or in other documents, plans, reports, materials, correspondence or testimony submitted by the Applicant shall be considered incorporated by reference into the Notice of Action, and no substantial or material deviation therefrom shall be permitted in the absence of further Planning Board approval. Any site plan for which a Building Permit has not been obtained within one year of the date of approval of the site plan shall be considered void unless the Board grants an extension for good cause. An extension shall be for one year. The Board shall grant no more than one extension for any site plan.

C. If, at any time before or during the construction of the required improvements, and before occupancy or use, unforeseen conditions make it necessary or desirable for the Applicant to modify the location or design of any part of the approved site plan, the Board may, after notice and public hearing, approve such changes and alterations. The Applicant shall submit a revised site plan for review and approval. If at any time after construction, the property owner wishes to modify any part of the site built in accordance with an approved site plan, the Board shall review and may approve such amendments after notice and public hearing of the application. The Board shall not reconsider any feature or aspect of the original site plan which was previously disapproved, unless the applicant demonstrates that the feature or aspect is materially different from the original, or that there have been material changes of circumstances affecting the merits of the reasons for disapproval.

Section 6: Submission Items: Site Development Plan and Supporting Data

Prior to the submission of the site development plan the applicant may submit to the Planning Board a sketch showing any preliminary information for discussion purposes only. On the formal submission of the site development plan, the applicant shall submit three sets (or number specified by the Board) of site plan maps and supporting data to the Planning Board which shall include the following information:

A. Existing Conditions

1. Name of project, if applicable, location of site, names and addresses of owners of record, abutting land owners and holders of any easements on the property.
2. Name, address, license number and seal of the person or firm preparing the map. Such map shall be prepared by a registered land surveyor, registered professional engineer, or professional landscape architect, unless waived by the Planning Board.
3. Name and address of person or firm preparing other data and information if different from the preparer of the map. Authorization to act on owner's behalf, if appropriate.
4. Scale of the map (1 inch equals 40 feet suggested), north arrow, lot lines, angles, dimensions, lot size and date. A site location map (suggested scale 1"=1000') showing the location of the site in relation to existing public streets, rights of way and zoning districts.
5. The existing grades, drainage systems, structures and topographic contours at intervals not exceeding 2 feet where grade is less than 5 percent, otherwise not exceeding 5 foot contour intervals.
6. The shape, size, height and location of existing structures on the site, and the use and location of structures within 200 feet of the site.
7. Natural features such as wetlands, streams, marshes, lakes, ponds, rock outcroppings and natural vegetation. Such map shall indicate which of such features are to be retained and which are to be removed or altered.
8. Use of abutting properties shall be identified, e.g. residential, agricultural, commercial.
9. The location and size of existing public and private utilities within 100 feet of the property boundary, and those with which connection is planned.
10. Existing landscaping and screening.
11. A copy of the current deed for the property, including any restrictions or easements thereon.

B. Proposed Plan

The application should describe the project plan including its nature, use, projected size and scope, construction timeframe and a discussion of the following:

1. The proposed grades and topographic contours at intervals not exceeding 2 feet where grade is less than 5 percent, otherwise not exceeding a 5 foot contour interval.
2. Soil erosion and sediment control plan.
3. A storm drainage plan including plans for retention and slow release of storm water where necessary and plans for snow removal and storage.
4. Location of on-site well and waste disposal systems, meeting NH State standards.
5. The shape, size, height, location, use and setbacks of the proposed structures including expansion of existing buildings.

6. The location and width of streets, driveways and sidewalks and the total number of parking spaces shall be shown with indication of direction of travel for one way streets and drives and inside radii of all curves. In addition, loading spaces and facilities associated with the structure on the site shall be shown.
7. A circulation plan of the interior of the lot showing means of access to the site and proposed changes to existing public streets including any traffic control devices necessary in conjunction with the site development plan.
8. Anticipated traffic volume and patterns.
9. The size and location of all proposed public and private utilities.
10. Location, type and nature of all proposed exterior lighting.
11. Proposed signs and associated lighting to be located on the site.
12. A plan showing the location, type and size of all proposed landscaping and screening, including fences and walls.
13. Plans for management of solid waste and any toxic or hazardous materials or waste.
14. Anticipated number of employees.

C. Additional Information

1. Any necessary Federal, State and local permits shall be noted in the application. Final approval of the Site Plan shall be contingent upon receipt of all required permits.
2. The Planning Board may require such additional information as it deems necessary in order to apply the regulations contained herein. All of the Planning Board's costs incurred in reviewing applications shall be borne by the applicant. Such costs include the cost for notification of abutters and reasonable fees to cover the board's administrative expenses. Additionally, the applicant shall bear the cost of special investigations which may be required by particular applications, including, but not limited to, environmental and community facilities impact studies, demographics, engineering reviews and "as built" plans. Should the Board determine that such information is to be required at the applicant's expense, the applicant shall be notified in writing within ten working days of the public meeting at which the determination was made.

D. Special Flood Hazard Areas

For site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

1. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
2. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).
3. The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
 - (i) all such proposals are consistent with the need to minimize flood damage;
 - (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
 - (iii) adequate drainage is provided so as to reduce exposure to flood hazards.

F. Fees

Site Plan Review and notification fees as found in the Town Fee Schedule will accompany the application. Failure to submit said fees or meet costs incurred under Section 6C above will be grounds for denial of the application.

Section 7: General Requirements

- A. The proposed development shall comply with the Zoning Ordinance, Subdivision Regulations and all other regulations and ordinances of the Town.
- B. Provision shall be made for the safety of pedestrian and vehicular traffic on the site and at the access to public and private streets.

- C. Provision shall be made for protection of natural features. The landscape shall be preserved in its natural state, insofar as is practical, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- D. Provision shall be made for erosion control during construction and for stabilization and landscaping upon completion of the project.
- E. Grading and filling must be conducted to minimize the alteration of surface and subsurface drainage to, toward or across abutting properties.
- F. Sufficient off-street parking must be provided so that no parking is forced into public streets.
- G. Outdoor lighting shall avoid glare or trespass beyond the property and minimize dark sky pollution. Moving, fluttering, blinking, flashing or neon lights or signs are not permitted.
- H. Screening may be required to reduce visual impact of inventory storage, solid waste collection or other areas as deemed appropriate by the Board.
- I. Landscaping should be provided which is in keeping with the character of the area where the development is located. Landscaping should be designed to enhance the attractiveness of the development; protect the appearance, character and value of the surrounding neighborhood; mitigate the aesthetic impact of accessory uses such as loading areas, dumpsters, utility equipment, storage and parking areas; facilitate safe pedestrian and vehicular traffic; mitigate climatic impact caused by large expanses of unshaded asphalt; reduce erosion; protect wetland and aquifer recharge areas; promote energy conservation and efficiency; soften glare; filter noise and air pollution; protect privacy; and to accomplish any other goals deemed necessary by the Board. The Board may require a buffer to assure that the proposed development conforms at its boundaries with the character of the adjoining land and its uses.
- J. The Board may require noise restrictions as appropriate, in order to mitigate potential adverse noise impacts upon abutters, the neighborhood and community, such impacts to be specifically identified in the Board's written decision.
- K. The Board may require air quality standards as appropriate.
- L. Quality of the groundwater shall not be adversely affected by the development nor violate the rules and regulations of the NHDES with regard to groundwater.
- M. Underground fuel storage tanks shall comply with NH State standards.
- N. The Board may require interior roads be designed in accordance with the Standard for Street Design in the Acworth Subdivision Regulations.
- O. Provision shall be made to assure that the proposal is consistent with the need to minimize flood damage and adequate drainage is provided so as to reduce exposure to flood hazards. Design provisions shall also be made to minimize or eliminate infiltration of floodwaters into new or replacement water supply systems and/or sanitary sewage systems and discharges into floodwaters from these systems. On-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding.
- P. Provisions shall be made for public services such as those available from telephone and electric companies; and further provisions for adequate water sources for domestic use and fire protection/suppression, sewage and waste material disposal, and fuel storage facilities. The Board may ask for review by the Fire Chief.
- Q. The Board may disapprove any application which involves development which is scattered or premature, or which may create a specific identified harm or hazard to the health, safety or welfare of the public, neighborhood, persons, property or environment. Moreover, the Board may impose reasonable conditions to mitigate any such possible harm or hazard.

Section 8: Off Site Improvements.

Where appropriate, the Board may require studies to determine whether and to what extent the proposed development may create need for new or upgraded off site improvements, as set forth in RSA 674:21, V(j). Such studies shall be paid for by the applicant. The applicant's share of such costs for off-site improvements shall be allocated and imposed in a manner consistent with applicable NH law.

Section 9: Waivers.

The Planning Board may waive any provisions of these regulations upon written request by the applicant, provided that:

1. Such waivers will not be contrary to the purpose or intent of these regulations;
2. No such waiver creates a conflict with other applicable regulations;

3. Such waivers shall be recorded in the minutes of the Planning Board and shall be shown on the approved Site Plan, if appropriate;
4. Written notice of the Board's decision on requested waivers, with explanation of any denials, shall be sent to the applicant by certified mail within 10 days of the public meeting at which the decision was made.

Section 10: Performance Guarantee

The Planning Board may require a performance bond, irrevocable letter of credit or other acceptable means of security be posted according to the provisions found in the Subdivision Regulations of the Town of Acworth. The amount of the bond will be determined by the Board. Release of the bond will be contingent upon the Planning Board's determination that the conditions of the Site Review have been met.

Section 11: Amendments

Amendments to these site plan review regulations shall be made in the same manner in which amendments to Subdivision Regulations are made.

Section 12: Separability

If any provision herein shall be held to be invalid for any reason by a Court, such a holding shall not invalidate in any manner any other provision contained herein.

Section 13: Appeals

Any person aggrieved by any decision of the Planning Board hereunder may appeal the decision to the Sullivan County Superior Court pursuant to the provisions of RSA 677:15 or to the Zoning Board of Adjustment pursuant to the provisions of RSA 676:5III as appropriate.

Section 14: Penalties

Whenever any provision of this regulation has been violated, the Planning Board or its duly authorized representatives, may take action as shall be deemed appropriate for the enforcement of the provisions of this regulation under RSA 676.

Section 15: Enforcement

These regulations shall be enforced by the Planning Board, Building Inspector or Board of Selectmen, or their duly authorized representatives as provided for in NH statute.

Section 16: Distribution

These regulations shall be filed with the following:

1. Acworth Town Clerk
2. NH Office of Energy and Planning
3. Acworth Board of Selectmen
4. Sullivan County Registry of Deeds

Adopted: May 27, 2009

Acworth Planning Board