

**SECTION 12.0 ADMINISTRATION**

**12.1 Enforcement.**

This By-law shall be enforced by the Board of Selectmen through the Building Commissioner.

- 12.1.1 Any person seeking enforcement of this By-law will submit a written request for such enforcement to the Building Commissioner, who will respond in writing within fourteen (14) days of such request.
- 12.1.2 Upon receipt of a written request for enforcement, or on his or her own initiative, the Building Commissioner shall investigate and, if appropriate, take actions to prevent or restrain violations of the By-law.
- 12.1.3 Violations of this Bylaw shall be punishable by a fine of Three Hundred (\$300.00) Dollars for each offense. Each day, or portion of a day, that such violation continues shall constitute a separate offense.

**12.2 Building Permits.** No building or other structure shall hereafter be erected, altered or moved without a building permit.

- 12.2.1 An application for a building permit shall be accompanied by such appropriate information as the Building Commissioner may require to demonstrate conformity with the provisions of the Town's By-laws, including this Zoning By-law, and all permits, licenses, or other approvals issued pursuant to the Town's By-laws relative to the erection, alteration or use of the structure or the lot on which the structure is, or will be, located. The Building Commissioner shall refuse to grant a building permit if the erection, alteration or movement of the structure would be in violation of any of said provisions, permits, licenses or other approvals.
- 12.2.2 The Building Commissioner shall either grant, or refuse to grant, a building permit within thirty (30) days of receiving a complete application for said permit. If the Building Commissioner refuses to grant a building permit, the refusal shall be in writing, and shall state clearly the reason(s) for the refusal.
- 12.2.3 Construction or operations under a building permit shall conform to any subsequent amendments to this By-law unless use or construction under said permit has commenced within twelve (12) months after the date of the permit.

**12.3 Occupancy Permits.** No structure or land shall be occupied or used, in whole or in part, until a certificate of occupancy has been issued by the Building Commissioner, stating that the use of the structure and/or land complies with the Town By-laws,

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including this Zoning By-law, and all conditions or requirements of any permit, license or other approval issued pursuant to any of the Town's By-laws.

If the Building Commissioner finds that use or occupancy of the land or structure would violate any of the Town By-laws, or any conditions or requirements of any permit, license or other approval issued pursuant to a Town By-law, the Building Commissioner shall refuse to grant an occupancy permit, stating clearly in writing the reason for such refusal.

**12.4 Administrative Appeals.** Any person aggrieved by reason of inability to obtain enforcement of this By-law, or by the issuance of a building permit or occupancy permit, or by the inability to obtain a building permit or occupancy permit under this By-law, or by reason of any order of the Building Commissioner or other administrative officer of the Town in violation of this By-law or G.L. c. 40A, may appeal to the Board of Appeals within thirty (30) days of the order or action complained of.

**12.5 The Board of Appeals.**

There shall be a Board of Appeals consisting of three members and two associate members, appointed by the Board of Selectmen in accordance with the provisions of Chapter 40A of the General Laws.

**12.5.1 Powers and Duties.** The Board of Appeals shall act on all matters over which it has jurisdiction, and in the manner prescribed by the following provisions, as the same may be amended from time to time:

12.5.1.1 The provisions of this Zoning By-law.

12.5.1.2 Chapter 40A of the General Laws.

12.5.1.3 Section 81Y Chapter 41 of the General Laws.

12.5.1.4 Chapter 40B of the General Laws.

**12.5.2** Without limiting the generality of Section 12.5.1, the powers of the Board of Appeals shall include the following:

12.5.2.1 To hear and decide administrative appeals in accordance with G.L. c. 40A, §8.

12.5.2.2 To hear and decide applications for special permits in all matters for which the Board of Appeals is designated in the By-law as the Special Permit Granting Authority.

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12.5.2.3 To hear and decide petitions for variances from specific requirements of this Bylaw, with respect to particular land or structures, where the Board *specifically finds that*:

- (a) There are special circumstances relating to the soil conditions, shape or topography of the land or structures for which the variance is sought, especially affecting such land or structures but not affecting generally the zoning district in which it is located; and that
- (b) Due to such special circumstances, a literal application of the provisions of this Bylaw would involve substantial hardship, financial or otherwise to the petitioner or appellant; and that
- (c) Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-law requirements to be varied.

12.5.2.4 To make findings with respect to proposed reconstructions, changes, or alterations of nonconforming single-family and two-family residential structures as provided Section 6. \_\_ of this By-law.

12.5.2.5 To serve as the board of appeals pursuant to G.L. c, 41, §§81Z and 81AA, with the jurisdiction to issue a building permit for erection of a building on a lot in a subdivision, where enforcement of the §81Y provisions prohibiting such permit would entail practical difficulty or unnecessary hardship, and if the circumstances do not require that the building be related to a way shown on a recoded subdivision plan.

12.5.2.6 To hear and decide applications under G.L.c. 40B, for comprehensive permits.

**12.6 The Planning Board.** The Planning Board shall exercise the following powers and duties in accordance with the provisions of this By-law and Chapter 40A of the General Laws, as may be amended from time to time:

12.6.1 To hear and decide applications for special permits in all matters for which the Planning Board is designated in this By-law as the Special Permit Granting Authority.

12.6.2 To hear and report upon all proposed zoning by-laws and amendments thereto in accordance with Section 5 of Chapter 40A.

12.6.3 To decide applications for Administrative Site Plan Review in accordance with Section 13 of this By-law.

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- 12.7 Rules and Regulations.** The Board of Appeals and the Planning Board shall adopt rules, not inconsistent with the provisions of this By-law and Chapter 40A of the General Laws, and shall file a copy of such rules with the Town Clerk.
- 12.8 Variances.** The following special provisions shall apply to the grant of variances under this By-law:
- 12.8.1 In granting a variance, the Board of Appeals shall ensure that the specific variance granted is the minimum relief necessary to allow for a reasonable use of the land or structure.
- 12.8.2 The Board of Appeals may not grant any variance that authorizes a use or activity not otherwise permitted in the District in which the land or structure is located.
- 12.8.3 In granting a variance, the Board of Appeals may attach such conditions, safeguards and limitations both of time and use as are deemed necessary to protect the surrounding neighborhood and the public good, including the continued existence of any particular structure, but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the petitioner or any owner.
- 12.8.4 A variance shall not take effect until it has been recorded in the Bristol County Registry of Deeds.
- 12.8.5 If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, the rights shall lapse. and may not be reinstated without new notice and hearing pursuant to G.L. c. 40A, 10. However, provided that the variance recipient files a written application for an extension with the Board of Appeals *prior* to the expiration of the one year period, the Board of Appeals may extend the time for exercise of such rights for a period not to exceed six months. If the Board of Appeals does not grant extension within thirty days of the date of the application, the rights under the variance shall lapse upon the expiration of the original one-year period.
- 12.9 Special Permits.** Certain uses and construction are identified in this By-law as requiring a special permit. The following special provisions apply to the grant of such special permits:
- 12.9.1 A special permit is a permit to use property for the purposes specified and shall not waive, vary, or relax any other provisions of this By-law applicable thereto.
- 12.9.2 The Special Permit Granting Authority may grant a special permit only if it finds that:

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- (a) The proposed use or construction is in harmony with the purpose and intent of this By-law;
- (b) The proposed use or construction will not be detrimental or injurious to the neighborhood in which it is to take place;
- (c) The proposed use or construction will comply with all applicable requirements of the By-law;
- (d) The use or construction is not noxious, harmful or hazardous, and is either socially or economically desirable or will meet an existing or potential community need; *and*
- (e) The advantages of the proposed use or construction outweigh any potential detrimental effects on the neighborhood and the environment, and are significantly greater than could be expected from development which could occur if the special permit were denied.

12.9.2 The Special Permit Granting Authority shall also make such further findings as may be required elsewhere in this By-law with respect to the particular special permit.

12.9.3 The Special Permit Granting Authority shall impose any specific conditions, safeguards and limitations as may be required elsewhere in this By-law with respect to the particular special permit, and may attach such additional conditions and safeguards as it deems appropriate to protect the surrounding neighborhood and further the purposes and intent of the By-law, including, but not limited to:

- (a) Front, side or rear yard requirements greater than the minimum required by this By-law.
- (b) Screening of parking area or other parts of the property from adjoin premises or from the street.
- (c) Limitations of size or occupancy of buildings, method or time of operations, or extent of facilities.
- (d) Regulation of number, design, and location of access driveways or other traffic features.
- (e) Off-street parking or loading requirements greater than required by this By-law.
- (f) Controls on the number, location, size and lighting of signs.

12.9.4 **Site Plan Review by the Board of Appeals.** Whenever the By-law imposes a requirement for site plan review or approval by the Board of Appeals in connection with a particular special permit for which said Board is the designated Special Permit Granting

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Authority, a site plan prepared in accordance with the applicable rules and regulations of the Board of Appeals shall be transmitted to the Planning Board for its review and report regarding access, egress, parking, topography, drainage, buffers or screening, and environmental impacts. No special permit shall be issued until the Planning Board reports its site plan comments and recommendation to the Board of Appeals in writing, or until thirty-five (35) days elapse without such report. If the Board of Appeals grants a special permit that does not incorporate the Planning Board's recommendations, or grants a special permit contrary to the Planning Board's report, the Board of Appeals shall, in its decision, state in writing the reasons for not following the Planning Board's recommendations.

- 12.9.4 **Lapse.** If a substantial use of a special permit has commenced except for good cause, or if construction authorized by a special permit has not begun except for good cause, within two years after the date the special permit was issued or within such lesser time period as may be specified as a condition of the special permit, the special permit shall lapse. The time limit for commencing substantial use, or beginning construction, under a special permit does not include the time required to pursue or await the determination of an appeal under G.L. c. 40A, §17.
- 12.9.5 **One Year Rule.** Construction or operations under a special permit shall conform to any subsequent amendment of this By-law unless the use or construction authorized under the special permit has commenced within one year after the date the special permit is issued and, in the case of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- 12.10 **Amendment of By-Law and Map.** This By-Law, or any part of this By-law, may be amended only by act of Town Meeting in conformity with the provisions of Section 5 of Chapter 40A of the General Laws.