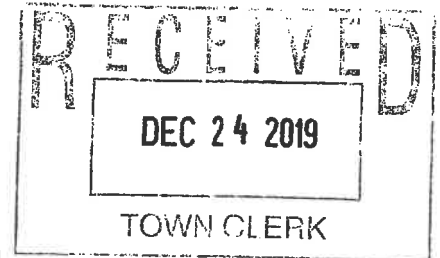


TO: TOWN CLERK
BOARD OF SELECTMEN
BUILDING INSPECTOR
DEPARTMENT OF PUBLIC WORKS

CONSERVATION COMMISSION
TRAFFIC COMMISSION
BOARD OF HEALTH
TOWN COUNSEL

PLANNING BOARDS: Lenox, Stockbridge, Gt. Barrington,
Tyringham, Becket, Washington

DATE: December 24, 2019



**TOWN OF LEE, MASSACHUSETTS
PLANNING BOARD
NOTICE OF A PUBLIC HEARING**

Biardi J. Page

The Planning Board will hold a public hearing on **Monday, January 13, 2020 at 6:00 P.M.** in accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 5 regarding amendments to the Lee Zoning Bylaws Section 199-6.1 Nonconforming Uses, 199-7.5 Nonconforming Signs, 199-13.3 Site Plan Review, 199.13.4 Special Permits. The additions to the Lee Zoning Bylaws Sections 199-4.2 Parking Lots and Parking Structures, and to the Table of Dimensional Requirements under Multiple Dwellings permitted uses under CBC (Commercial Business Corridor). Pursuant to G.L. C. 41 S. 81Q and G.L. c. 40A S. 9 an amendment to regulations governing fees and a new schedule of fees for review conducted by Planning Board. The public hearing will take place in the Lee Town Hall, 2nd floor, Land Use Office, 32 Main Street, Lee, MA.

A copy of the proposed changes dated December 24, 2019 is on file and may be inspected in the Town Clerk's office. Any person interested, or wishing to be heard should appear at the time and place designated. If unable to attend, please submit comments in writing to the Planning Board at 32 Main Street, Lee MA. 01238.

Matt Carlino
Chairman

First Proposal: Repeal existing subsection 13.3 (Site Plan Review) and replace it with a new subsection 13.3 as follows:

§ 13.3. Site Plan Review.

(A) Purposes and Scope

- (1) Site plan review provides oversight of uses and structures which have the potential for substantial impact on the town, and examines primarily the details of site and building design.
- (2) The review aims to protect the natural, environmental, scenic and aesthetic qualities of the town and the health, safety and general welfare of its residents. The review assesses the functioning and design of the lot or site and the likely impacts on nearby properties and the town at large.
- (3) This section describes procedures used by the Planning Board during site plan review. It does not apply to reviews under the town's subdivision regulations, which prescribe separate review procedures.

(B) When Required

- (1) A site plan review is required whenever another provision of this bylaw so states. Nevertheless, reasonable repairs may be made at any time to an existing structure without submitting a site plan.
- (2) In addition, a site plan review is also required for any nonresidential use in the R-20, R-30, RA-40, RM, BM, CR, RB, OPLI, I or PCVC Zoning Districts that involves any of the following:
 - (a) At least 10,000 square feet of new construction or expansion of existing construction.
 - (b) A use that generates at least 500 vehicle trips per day, calculated in accordance with the Institute of Traffic Engineers traffic standards.
 - (c) A use that generates at least 2,000 gallons of sewer flow per day, calculated in accordance with the standards established by 310 CMR 15.00 (Title V of the State Sanitary Code).
 - (d) The direct alteration of 25 or more acres of land for new nonresidential construction (other than utility lines).
- (3) In addition, a site plan review is required for any new nonresidential business (with or without construction or alteration) in the Commercial Business Corridor (CBC) District or the Downtown Commercial Business Corridor (DCBC) District.

- (b) A site plan drawn to scale on one or more sheets that show the location and dimensions of the following:
- (i) Site boundaries and natural features.
 - (ii) Topography, with elevation lines at no more than ten-foot intervals, as measured using the nearest United States Coast and Geodetic Survey bench mark [National Geodetic Vertical Datum (NGVD)].
 - (iii) Existing and proposed buildings and structures, parking spaces, pedestrian walks, driveways, internal roads, access and egress points, loading areas, external storage areas, dumpsters, service areas and natural areas.
 - (iv) Existing and proposed landscaping, including fencing, walls, planting areas, screening, surface treatments and other vegetation.
 - (v) Existing and proposed drainage and utility systems, including water and sewer, natural gas, electric, street lighting and entertainment and telecommunications systems.
 - (vi) Existing and proposed freestanding signs.
 - (vii) Existing and proposed exterior lighting, indicating height, size, design, LUX (lumens per square meter) of lit areas, and materials.
 - (viii) Existing and proposed easements (or other use restrictions), watercourses and wetlands, if any.
 - (ix) Existing and proposed open spaces, common areas, pedestrian amenities available to the public, other recreational uses and land to be left in or restored to its natural state.
 - (x) Any unusual historical considerations affecting the area.
- (c) Facade elevations of any new construction and/or alteration to any existing building or structure.
- (d) The existing and proposed floor area of all structures and the number of residential units proposed
- (e) The number and location of proposed parking areas, including those reserved for handicapped individuals.
- (f) Whether existing buildings will be reused.
- (g) A table indicating, for each zoning classification, the applicable required and proposed setbacks; and side and rear yard distances.
- (h) A description of the use, ownership and zoning of adjacent land within 200 feet of the site boundaries and the use of any buildings thereon.

review, the Planning Board or its designee shall require the applicant to pay the fee prescribed.

(2) The Planning Board may require an additional deposit sufficient to cover any extraordinary expenses connected with review of the application, such as for consultant services, which it deems necessary for a thorough review.

(G) Acceptance for Review

(1) The Planning Board or its designee shall determine whether each application complies with the requirements of this section and is sufficient for review.

(2) If the Planning Board determines that a project has the potential for substantial effect on the neighborhood or on the town, and if the applicant has filed a Minor Site Plan, then the Planning Board may determine that the application is not sufficient for review. Thereafter, the applicant may file a Major Site Plan for the same project.

(H) Review by Other Town Boards and Agencies

(1) When it accepts an application for site plan review as sufficient for review, the Planning Board may seek comment from some or all of the following town boards and officers:

- (a) Conservation Commission;
- (b) Board of Health;
- (c) Department of Public Works;
- (d) Board of Selectmen;
- (e) Traffic Commission;
- (f) Building Commissioner; and
- (g) Town Clerk.

(2) Whenever the Planning Board seeks comment from other town boards and officers, it shall request comment by a specified date. For a Major Site Plan, the other boards shall normally be allowed at least 35 days for comment.

(3) Any town board or officer may submit written recommendations to the Planning Board, whether or not the Planning Board has requested that comment.

(4) If an officer or board fails to provide a timely response, the Planning Board shall deem that the application is unopposed by that officer or board.

(I) Public Input Meeting.

- (h) To ensure that exterior and site lighting will be compatible with the neighborhood, will not inconvenience neighbors, and will not add unreasonably to overall light pollution in the town.
 - (i) To make adequate provisions for storage, refuse storage and removal, drainage, dust and erosion control, water supply, wastewater disposal and power supply.
 - (j) To ensure that the project is reasonably compatible with abutting properties or any special features in the area.
 - (k) To protect significant visual corridors.
 - (l) To make reasonable accommodations to any significant historical considerations affecting the area.
 - (m) If the project is in the Industrial (I), Commercial Business Corridor (CBC) or Downtown Commercial Business Corridor District (DCBC) zones, to encourage reasonable reuse of existing buildings.
- (3) Conditions may also be imposed for the following purposes when a site plan involves construction or substantial expansion of a structure:
- (a) To better match the architectural style of the proposed building(s) to the prevailing character of and scale of buildings in the neighborhood and the town.
 - (b) To make the height of any proposed alteration compatible with the style and character of the surrounding buildings.
 - (c) To make the proportions and relationships between windows and doors compatible with the architectural style and character of the surrounding area.
 - (d) To improve the compatibility of the structure to the open space between it and adjoining structures.
 - (e) To improve the compatibility of the design of the roof with the architectural style and character of the surrounding area.
 - (f) To improve the compatibility of the landscaping with the character and appearance of the surrounding area.
 - (g) To improve the compatibility of the scale of the structure with its architectural style and the character of the surrounding buildings.
 - (h) To better blend the facades with other structures in the surrounding area with regard to the dominant vertical or horizontal expression.
 - (i) To improve the compatibility of architectural details, including signs, materials, colors and textures with the original architectural style and to preserve and enhance the character of the surrounding area.

(3) Any approved site plan may be revised by following the same procedure as required for original approval. Nevertheless, the Planning Board may accept minor revisions to an approved site plan without collecting fees, notifying other boards or officers or conducting a public input meeting.

(D) Filing Procedure, Copies

- (1) A Special Permit application shall be filed with a paper original, 14 paper copies, and an electronic copy in a commonly used format.
- (2) Before filing, an applicant may discuss the application and all plans and supplemental documents with a designee of the Planning Board. The designee shall advise the applicant: of any need for a special permit and the identity of the special permit granting authority; whether the filing appears sufficiently complete; and the required fees.
- (3) Thereafter, the applicant shall file the application, including all plans and supplemental documents, with the Town Clerk, who shall stamp the date and time. The Town Clerk shall then forward the site plan portion of the filing to the Planning Board or its designee and the remainder of the filing to the special permit granting authority or its designee.
- (4) If a project requires two or more special permits from different boards, the boards shall seek to hear the project in a joint hearing, shall collect a single fee, and shall provide a single notice to the public.

(E) Fees and Costs

- (1) The Planning Board shall adopt (and from time to time amend) a fee schedule sufficient to cover the routine cost of special permit reviews, including the costs associated with public hearings. Before accepting the filing of an application for a special permit, the special permit granting authority or its designee shall require the applicant to pay the fee prescribed.
- (2) The special permit granting authority may require an additional deposit sufficient to cover any extraordinary expenses connected with review of the application, such as for consultant services, which it deems necessary for a thorough review.
- (3) Fee Waivers. On request, the special permit granting authority may waive some or all fees and costs in cases of demonstrated hardship or in cases where an applicant makes a minor revision to a special permit within one year of its effective date.

(F) Acceptance for Review

- (1) The special permit granting authority (or its designee) shall determine whether each application complies with all appropriate requirements of this section and is sufficient for review. An application that is not sufficient for review shall be deemed rejected, without prejudice to refile.

(1) When required by state law,¹ the special permit granting authority shall hold a public hearing on each special permit application that has been found sufficient for review.

(2) Notice of Public Hearing.

(a) The special permit granting authority shall give notice of the public hearing as follows:

(i) By posting notice in a conspicuous place in the Town Hall for at least 14 days in advance.

(ii) By posting on the town's internet website.

(iii) By publication in a newspaper of general circulation in the town once in each of two successive weeks, the first time at least fourteen days in advance.

(iv) By first class mail to all parties in interest.²

(b) Additional notice. The special permit granting authority, in its discretion, may give additional notice by mailing written notice to other neighboring landowners.

(J) **Mandatory Findings.** Before granting a special permit, with or without conditions, the special permit granting authority shall find that the proposed structure or use satisfies all of the following standards:

(1) The structure and/or use is in compliance with all provisions and requirements of this chapter and in harmony with its general intent and purpose.

(2) The structure and/or use is essential or desirable to the public convenience or welfare at the proposed location.

(3) The structure and/or use will not be detrimental to adjacent uses or to the established or future character of the neighborhood.

(4) There will not be undue traffic congestion or undue impairment to pedestrian safety.

(5) The structure and/or use will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use

¹ E.g., M.G.L. c. 40A, § 9 regarding special permits for specified zoning uses.

² Parties in interest are defined in M.G.L. c. 40A, § 9. The term includes certain nearby landowners as well as the planning boards of every abutting town.

(2) Associate Members. The Board of Selectmen may appoint an associate member of the Planning Board.⁴ The associate member may participate in all meetings of the Planning Board. The associate member may vote only on questions regarding a special permit and only when the board has either a vacancy, an absent regular member, or a regular member disqualified due to conflict of interest.

(M) Written Decision

(1) The special permit granting authority shall cause to be made a detailed record of its proceedings.⁵ The record of proceedings shall state the special permit granting authority's decision and the authority and reasons for that decision. It shall also indicate the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The record shall also include written recommendations received from other town officers and boards, including any recommended decision from the Planning Board after a site plan review. Copies of the record shall be filed within fourteen days in the office of the Town Clerk and shall be a public record.

(2) After granting a special permit, or any extension, modification or renewal thereof, the special permit granting authority shall issue a written decision memorandum stating its official actions, including any conditions imposed.⁶ The decision memorandum shall also specify which appeals, if any, may be made under state law and this bylaw.⁷

(3) A certified copy of decision memorandum⁸ shall be mailed to the owner (and to the applicant if other than the owner), containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of that special permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and the Town Clerk. Copies shall also be mailed to other parties in interest.⁹ Copies of the decision shall also be mailed to every person who was present at the

⁴ M.G.L. c. 40A, § 9.

⁵ M.G.L. c. 40A, § 9.

⁶ M.G.L. c. 40A, § 9.

⁷ M.G.L. c. 40A, § 9.

⁸ Minimum contents of the decision notice is prescribed by statute. M.G.L. c. 40A, § 11.

⁹ Parties in interest are defined in M.G.L. c. 40A, § 9. The term includes certain nearby landowners as well as the planning boards of every abutting town.

SECTION 7.5 NONCONFORMING SIGNS.

A) **Maintenance.** Any lawfully existing nonconforming sign ~~cannot be enlarged, reworded, redesigned or altered in any way, except to conform to the requirements of this section, may be reworded or repainted. and provided, further, that any such sign which has deteriorated to such an extent that~~ Any lawfully existing nonconforming sign may be repaired or restored, except that for free standing nonconforming signs, where the cost of repair or restoration would exceed 35% of the replacement cost, then the sign shall not be repaired, rebuilt or altered except to conform to the requirements of this section bylaw.

B) **Replacement.** Any sign replacing a nonconforming sign shall not increase the nonconformity. ~~However, a replacement for a free standing nonconforming sign shall conform to the provisions of this section bylaw,~~ and the nonconforming sign shall no longer be displayed.

C) **Abandonment.** If a nonconforming sign is associated with a permitted use or structure that has been abandoned for ~~six months~~ two years or more, then the nonconforming sign shall be removed and its nonconformity shall not continue.

PLANNING BOARD PROPOSAL REGARDING PARKING USES

Draft Date 12/26/19

LEE ZONING REGULATIONS SECTION 4.2 IS AMENDED AS FOLLOWS (underlined text to be added):

4.2 LIST OF PERMITTED USES

A) Residential Districts (R-20 & R-30)

(3) **Uses requiring a special permit from the Board of Appeals** in accordance with Section 13.2 (B) (3) of this chapter, and in compliance with all other applicable provisions of this chapter, shall be as follows:

(d) Parking lot.

B) Residential-Agricultural District (RA-40)

(3) **Uses requiring a special permit from the Board of Appeals** in accordance with the regulations appearing in Section 13.2 (B)(3) of this chapter, and in compliance with all applicable provisions of this chapter, shall be as follows:

(d) Parking lot.

C) Residential-Multiple Dwelling Districts (RM)

(3) **Uses requiring a special permit from the Board of Appeals** in accordance with Section 13.2 (B)(3) of this chapter, and in compliance with all other applicable provisions of this chapter, shall be as follows:

(d) Parking lot.

D) Conservation-Residential Districts (CR)

E) Rural Business District (RB)

(3) **Uses requiring a special permit from the Board of Appeals** in accordance with the regulations appearing in Section 13.2 (B)(3) of this chapter, and in compliance with all applicable provisions of this chapter, shall be as follows:

(d) Parking lot.

* * *

K) Office Park and Light Industrial District (OPLI)

(1) **Uses allowed under site plan review** by the Planning Board in accordance with Section 13.3:

* * *

(j) Parking lot.

(2) **Uses requiring a special permit from the Planning Board** in accordance with Section 13.4 of this chapter, and in compliance with all other applicable provisions of this chapter, shall be as follows:

(g) Multistory parking.

Question: Should the Lee Zoning Bylaw, Table 2, be amended as follows in order to establish dimensional requirements for multifamily housing in the CBC zone?

Table of Dimensional Requirements for Multiple Dwellings - Table 2 of 2

Zoning District	Area:	Maximum Number of Dwelling Units (per acre)	Additional Square Feet per Dwelling Unit	Minimum Frontage (feet)	Minimum Yard Dimensions			Maximum Lot Coverage
					Front (feet)	Side (feet)	Rear (feet)	

Commercial Business Corridor (CBC)	<u>8,000 sq.ft</u>	<u>NR</u>	<u>NR</u>	<u>60</u>	<u>25⁴</u>	<u>10</u>	<u>20</u>	<u>35%</u>

NOTES TO TABLE 2:

4. A landscaped buffer strip, continuous except for approved driveways, shall be established adjacent to any public road, and major trees shall be planted parallel to and at least 15 feet from the curbline as well as in a manner compatible with the buildings in the area. A coordinated landscape design for the entire project shall be reviewed by the Planning Board and incorporated into site plan review and approval.

LEE PLANNING BOARD

Proposal to Amend Existing Fees

By a regulation adopted September 11, 2006, the Lee Planning Board established fees for activities relating to subdivision and zoning activities.

The board now proposes to amend that document in one respect only. In Section 3.3(F), the existing regulation prescribes a fee of \$700.00 for all special permits. The Planning Board proposes to reduce that fee to \$500.00,

In accordance with the 2006 regulation, this proposal will be discussed at a public hearing to be held on January 13, 2020, at 6:00 pm at the Town Hall. The question will be:

Shall the Planning Board reduce the fee for special permits from \$700.00 to \$500.00?