

## TOWN OF ESSEX

### Planning Board

## SPECIAL USE PERMIT and SPECIAL USE PERMIT WITH SITE PLAN

### INSTRUCTIONS FOR APPLICANTS

The following is provided for the convenience of applicants whose proposed projects require a **Special Use Permit** or a **Special Use Permit with Site Plan**. This material reflects the requirements contained in the Town of Essex Zoning Law as amended on May 14, 2015. The entire law is posted elsewhere on this web site. For the sake of clarity in this document, the Law's provisions have been simplified or paraphrased. Excerpts from the law are enclosed in quotation marks. This guide in no way negates any aspects of the actual law, and applicants are encouraged to review the law in its entirety. An applicant should refer questions to the Town Zoning Officer or the Secretary of the Planning Board.

#### Special Use Permits

The Zoning Law states the purpose of **Special Use Permits** in Section 6.1-1 of the Zoning Law as follows:

Pursuant to the Comprehensive Plan of the Town of Essex, it is the policy of the Town of Essex to balance the allowance and encouragement of a variety of uses of land and to foster economic opportunities within the municipal boundaries of the Town, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, the rural and historic character of the Town or the long-term development of the Town. Many uses are, therefore, permitted only upon issuance of a Special Use Permit by the Planning Board in order to ensure that these uses are appropriate to their surroundings and satisfy performance criteria on a case-by-case basis.

The need for such a permit depends upon a) the nature of the proposed project (e.g. construction or expansion of a single family dwelling, a change of use of a building or parcel of land) and b) its location in the Town. The Town is divided into a number of zoning districts - Low Intensity, Rural Use, Resource Management, etc... Applicants should refer to the zoning map of the Town (Schedule B of the Zoning Law) to determine in which zoning district the proposed project is located.

Schedule A of the Zoning Law identifies these two variables and delineates when a Special Use Permit is required. In such instances approval by the Planning Board is required before the project can commence. In some instances delineated in Schedule A, a Special Use Permit with Site Plan may also be required. The additional requirements for this are described in a separate section below.

The Planning Board urges applicants to obtain the assistance of the Zoning Officer in completing the [Application for a Special Use Permit](#) (which can be downloaded from this website) and other required documents. Applicants are also encouraged to attend a Planning Board meeting prior to filing the application to discuss the nature of the proposed use and to determine the information that will need to be submitted. The Planning Board meets the third Thursday of each month at 7pm. All Planning Board meetings are held in the Town offices. Applications and other required documents (see below) must be submitted to the Zoning Officer at least 10 days prior to the meeting at which the application is to be deemed complete. Applicants or their authorized representative(s) must be present at all Planning Board meetings at which their application is to be discussed.

**Required Information:**

- A completed Special Use Permit Application
- Photo Identification of the Applicant(s) (driver's license, passport)
- If appropriate, a letter from the applicant(s) authorizing a third party to act on his/her behalf in the application process.
- "A detailed plot plan, drawn to scale with accurate dimensions providing information sufficient to enable the Planning Board to make an informed decision" (Section 6.2-2). Photos may also be included.
- A detailed and clear narrative describing the project - its proposed use and operation.
- A copy of the deed to the property with the applicant(s) clearly shown as the current owner(s) - or a legal document showing the property will be owned by the applicant(s) prior to the commencement of the project.
- If applicable, an agricultural data statement. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Special Permit application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant
- For properties outside the Essex and Whallonsburg Hamlets, a letter from the Adirondack Park Agency (APA) indicating the project is non-jurisdictional, a letter from the APA indicating the project is approved; or a copy of the letter of application to the APA. (Note: in some instances the

property in question may not have APA approval for a building right - it is the applicant's responsibility to obtain this determination). .

- A list of the names and mailing addresses of all property owners whose property adjoins or is located within 500 feet of the project site.
- A short-form (attached) SEQRA Environmental Assessment Form (EAF), Part 1. (Depending on the nature of the project, the Planning Board may require a long-form EAF.)
- The Application fee.

The Planning Board may waive or add specific requirements for an application submission if it deems it appropriate.

Note: in some instances applications must be referred to the Essex County Planning Board. In others, the applicant may be required to apply to the NYS Office of Parks, Recreation, and Historic Preservation, and/or the NY Department of Environmental Conservation. The Zoning Officer will inform the applicant(s) and Planning Board if this is the case.

Once the Planning Board has taken action to declare an application is complete, within 62 days it will hold a public hearing (the hearing is normally scheduled for the next meeting of the Board). Ten days prior to that meeting, public notice will be given, including to all property owners within 500 feet of the project.

Within 62 days of that hearing, the Planning Board will “grant, deny, or grant subject to conditions” (Section 6.3-8-1) the application. (This action is normally taken shortly after or at the public hearing). The applicant will be informed in writing within 5 days of the decision, including any stipulations. The approval will be filed with the Town Clerk at that time.

The Special Permit expires if its use or uses “cease for more than 12 consecutive months for any reason, if the applicant fails to obtain the necessary APA Project Permit, or fails to comply with the conditions of the Special Permit within 18 months of its issuance, or it its time limit expires without renewal.” (Section 6.3-9) The permit “may be revoked by the Planning Board if the permittee violates the conditions of the Special Permit or engages in any construction or alteration not authorized by the Special Permit” (Section 6.3-9-3).

#### Special Use Permit with Site Plan

Some projects (see Schedule A of the Zoning Law) require a **Special Use Permit with Site Plan** as noted below in Section 7.1-1 of the Zoning Law:

The purpose of a Special Use Permit with Site Plan is to review the location of a proposed use or structure on a particular proposed site of

land. Even though the use itself may be suitable for a particular district, the operation of the type of use proposed may be problematic depending on the design, layout or location of the proposed use or structure. In this respect, the Planning Board will review Site Plans on a case-by-case basis in order to ensure that the proposal meets the applicable criteria set forth in this local law so that nearby properties and areas are protected from intrusive impacts. The review and approval of Site Plans thereby provide a flexible means of land use regulatory control so that the interests of the Applicant, the community and neighboring property owners and residents, and the Town are properly considered and balanced.

The Planning Board may require architectural drawings of proposed structures be submitted with respect to any applications where architectural design may be a factor. Applications that involve land or buildings within the Shoreline Overlay District, the Essex Historic District, and the Essex and Whallonsburgh Hamlet Districts may be those types of applications where such drawings are appropriate. Such drawings may be required by the Planning Board wherever the project is located as long as architectural design is a significant factor in whether the proposal meets the criteria for a Special Use Permit with Site Plan.

The Planning Board urges applicants to obtain the assistance of the Zoning Officer in completing the [Application for a Special Use Permit with Site Plan](#) (which can be downloaded from this website) and other required documents. Applicants are also encouraged to attend a Planning Board meeting prior to filing the application to discuss the nature of the proposed use and to determine the information that will need to be submitted. The Planning Board meets the third Thursday of each month at 7pm. All Planning Board meetings are held in the Town offices. Applications and other required documents (see below) must be submitted to the Zoning Officer at least 10 days prior to the meeting at which the application is to be deemed complete. Applicants or their authorized representative(s) must be present at all Planning Board meetings at which their application is to be discussed.

In addition to the information required above for Special Use Permits, Special Use Permits with Site Plan require all or most of the following, depending upon the nature of the project. The applicant should consult with the Zoning Officer to determine which of the following applies to the particular situation. This information must be prepared by a registered professional engineer, architect, surveyor or landscape architect. (Section 7.3 of the Zoning Law.)

A vicinity map drawn at the scale that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within 500 feet of the property. Such a sketch may be superimposed on a United States

Geological Survey map of the area.

The site plan shall be drawn at a scale of forty feet to the inch (1" = 40 feet) or such other scale as the Planning Board may deem appropriate, on standard 24" x 36" sheets, with continuation on 8½" x 11" sheets as necessary for written information. The information listed below shall be shown on the site plan and continuation sheets.

- Name of the project, boundaries, date, north arrow, and scale of the plan.
- Name and address of the owner of record, developer, and seal of the engineer, architect, or landscape architect. If the applicant is not the record owner, a letter of authorization shall be required from the owner.
- The location and use of all existing and proposed structures within the property, including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations.
- The location of all present and proposed public and private ways, offstreet parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, paths, landscaping, walls, and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
- The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- The location, height, size, materials, and design of all proposed signs.
- The location of all present and proposed utility systems including:
  - o Sewage or septic system;
  - o Water supply system;
  - o Telephone, cable, and electrical systems; and
  - o Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end-walls, hydrants, manholes, and drainage swales.
- Plans to prevent the pollution of surface or groundwater,

erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.

- Existing and proposed topography at two-foot contour intervals or such other contour interval as the Planning Board shall allow. If any portion of the parcel is within the 100-year floodplain, the area will be shown and base flood elevations given. Areas shall be indicated within the proposed site and within 50 feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards.
- A landscape plan showing all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight or more inches in diameter, forest cover, and water sources, and all proposed changes to these features including sizes and types of plants. Water sources include ponds, lakes, wetlands and watercourses, aquifers, floodplains, and drainage retention areas.
- Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts on the site and within 100 feet of the site. The Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas, which shall include:
  1. The projected number of motor vehicle trips to enter or leave the site, estimated for weekly and annual peak hour traffic levels;
  2. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
  3. The impact of this traffic on levels of service on abutting public streets and at affected intersections. Existing and proposed weekly and annual peak hour traffic levels and road capacity levels shall also be given.
- For new construction or alterations to any structure, a table containing the following information shall be included:

- o Estimated area of structure to be used for particular uses such as retail operation, office, storage, etc.;
  - o Estimated maximum number of employees;
  - o Maximum seating capacity, where applicable; and
  - o Number of parking spaces existing and required for the intended use.
- Where necessary, to determine and mitigate project impacts soil logs, water supply well, percolation test results, and storm runoff calculations must be made
  - Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.

The Planning Board may waive or add specific requirements for an application submission if it deems it appropriate.

The procedures for approval of a Special Use Permit with Site Plan are identical to those for a Special Use Permit and are described above.