
TOWN OF BROOKLINE, NEW HAMPSHIRE

NON-RESIDENTIAL SITE PLAN REGULATIONS



Adopted

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Amended

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SECTION 1. AUTHORITY

Pursuant to the authority vested in the Brookline Planning Board by the voters of the Town of Brookline, on January 8, 1951, in accordance with the provisions of Chapter 674: Sections 35-37, 43-44 inclusive, NH Revised Statutes Annotated 1955, as amended, the Brookline Planning Board adopts the following regulations governing the site plan review of land in the Town of Brookline, New Hampshire.

SECTION 2. DEFINITIONS

- 2.1.01. Abutter: Shall mean any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356- B:3, XXIII.
- 2.1.02. Accessory Building or Use, Customary: A "customary accessory building or use" is one which:
- a. Is secondary to and serves the principal building or principal use;
 - b. Is secondary in area, extent, or purpose, to the principal use served;
 - c. Contributes to the comfort, convenience, or necessity of occupants on the principal building or principal use served, and
 - d. Is located on the same plat as the principal building or principal use served.
 - e. Contributes activity to the principal use.
 - f. A garage not attached to the principal structure is considered an accessory building.
- 2.1.03. Active and Substantial Development or Building: Shall mean the completion of at least twenty-five (25) percent of the approved plan's improvements, as demonstrated to the Planning Board by the owner and/or owner's agent. (8/21/97)
- 2.1.04. Agent: Shall mean any person designated in writing by the owner to be the representative of the owner in any matter before the Board. (8/21/97)
- 2.1.05. Agricultural Buildings: Any building used directly or indirectly for the cultivation, harvesting or selling of produce and the breeding and selling of livestock which does not attract vehicular traffic, except that of employees of the farm activity.
- 2.1.06. Alternative tower structure: Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
- 2.1.07. Antenna: Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- 2.1.08. Applicant: The person or organization requesting approval by the Board.
- 2.1.09. Approval: Shall mean recognition by the Planning Board, certified by written endorsement on the plat, that the final plat submission meets the requirements of these regulations and satisfies, in the judgment of the Planning Board, all criteria of good planning and design.
- 2.1.10. Board: Shall mean the Town of Brookline Planning Board.
- 2.1.11. Bond: Shall mean a bond or other form of surety filed with the Board of Selectmen whose purpose is to ensure that work specified by the Board is completed satisfactorily. The amount of the Bond shall be

determined by the Planning Board with such assistance as it deems necessary. The amount shall be sufficient to cover all costs for completion of the work by the Town in the event that the applicant defaults. In all other respects, the action of the Board shall be governed by NH-RSA 674:44.

- 2.1.12. Certification: Shall mean a signed, written approval by the Board that a soil erosion and sedimentation control plan complies with the applicable requirements of the regulations.
- 2.1.13. Change or Expansion of Use: the creation, alteration, modification or enlargement of a non-residential use which increases, intensifies or otherwise negatively impacts any of the following: site lighting, sewage, water, drainage, pedestrian or vehicular traffic, parking or loading, sign usage, landscaping or buffer zones, site access, noise, or other public health, safety or welfare consideration.
- Situations not ordinarily constituting “change or expansion of use” include: a mere substitution in tenant, owner, service or product, with no impact regarding the above considerations; interior remodeling which does not increase square footage. Whether a “change or expansion of use” occurs is a determination to be made by the planning board (11/19/91).
- 2.1.14. Co-location: The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.
- 2.1.15. Completed Application: Shall mean that sufficient information is included or submitted to allow the Board to proceed with consideration and to make an informed decision. A completed application meets all of the requirements of section 5.1.01 and Appendix B of these regulations.
- 2.1.16. County Conservation District: Shall mean the Hillsborough County Conservation District (HCCD).
- 2.1.17. Development: Shall mean any construction or grading activities to improved or unimproved real estate.
- 2.1.18. Disturbed Area: Shall mean any area where the ground cover is destroyed, changed, or removed leaving the land subject to accelerated erosion.
- 2.1.19. Easement: Shall mean the land area created through authorization by a property owner for the use by another and for a specified purpose of any designated portion of his property.
- 2.1.20. Elevation: The measurement of height above sea level.
- 2.1.21. Erosion: Shall mean the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.
- 2.1.22. Final Plat: The final drawing(s) on which the site plan is indicated, as required by Section 4 of these regulations.
- 2.1.23. Grading: Shall mean and excavating, grubbing, filling, (including hydraulic fill), or stockpiling of earth materials and or combination thereof, including the land in its excavated or filled condition.
- 2.1.24. Ground level: The average elevation of the finished grade surrounding the tower or other structure.
- 2.1.25. Guy Wires: A cable used to secure and steady a tower.
- 2.1.26. Guyed tower: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- 2.1.27. Handbook: Shall mean the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1987), prepared by the USDA Soil Conservation Service, as amended.
- 2.1.28. Height: The vertical distance measured from ground level to the highest point on the tower or other structure, including antennas.
- 2.1.29. High Intensity Soils Map: Shall mean a soils map of a parcel of land being considered for development in accordance with the High Intensity Soils mapping standards as adopted by the Hillsborough County Conservation District.
- 2.1.30. Inspection: Shall mean the periodic review of sediment and erosion control measures shown on the certified plan.

- 2.1.31. Inspector: The duly designated inspector appointed by the Board.
- 2.1.32. Lattice Tower: A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- 2.1.33. Licensed Land Surveyor: Shall mean a person who engages in the practice of land surveying and is licensed by the State of New Hampshire.
- 2.1.34. Licensed Professional Engineer: Shall mean a person who, by professional education and practical experience, is qualified and licensed to practice engineering by the State of New Hampshire.
- 2.1.35. Master Plan: Shall mean the comprehensive plan or plan of development for the Town of Brookline.
- 2.1.36. Monopole: A type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top, constructed without guy wires.
- 2.1.37. Non-Residential Use: Shall mean all uses other than agricultural buildings, one and two family residences, and/or accessory buildings, but including public or semi-public buildings.
- 2.1.38. Plat: Shall mean the map, drawing or chart on which the site plan applicant's proposal for development is set forth together with all required supporting information and shall include such collateral and supporting documents as may be necessary to support the proposal.
- 2.1.39. Preexisting towers and antennas: Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Town.
- 2.1.40. Secondary use: A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.
- 2.1.41. Sediment: Shall mean solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
- 2.1.42. Shade Tree: Shall mean a deciduous or evergreen tree with minimum 2 inch caliper, 10 foot height and 5 foot spread and well branched. (06/21/01)
- 2.1.43. Soil: Shall mean any unconsolidated mineral or organic that is in suspension, is transported, or has been moved from its site of origin by erosion.
- 2.1.44. Soil Erosion and Sediment Control Plan: Shall mean a scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.
- 2.1.45. Street: Shall mean a public way deeded to the Town. This includes the entire right-of-way.
- 2.1.46. Subdivider: Shall mean the owner of record of the land to be subdivided, including any subsequent owner of record making any of such land or any part thereof, or the duly authorized agent of any such owner. (8/21/97)
- 2.1.47. Subdivision: Shall mean the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision. The grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unmanned structure which is less than 200 square feet, shall not be construed as a subdivision under this title, and shall not be deemed to create any new division of land for any other purpose.

- 2.1.48. Telecommunications facilities: Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.
- 2.1.49. Time Periods: All time periods are calculated in terms of calendar days unless otherwise noted.
- 2.1.50. Tower: A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

SECTION 3. PROCEDURES

Section 3.1. General

- 3.1.01. The purpose of these regulations is to provide for Planning Board review and approval or disapproval of site plans for the development or change or expansion of use of tracts of land for all non-residential uses whether or not such development includes a subdivision or re-subdivision of a site, prior to the issuance of a building permit, and to assure that minimum standards will be attained so as to provide for and protect the public health, safety, and welfare of the Town of Brookline, in accordance with NH RSA 674:43, NH RSA 674:44, and NH RSA 675:8.
- 3.1.02. In the review of any site plan conducted under these regulations, the Board shall ascertain that adequate provisions have been made by the owner or his authorized agent for the following:
- a. Traffic circulation and access including adequacy of adjacent streets, entrances, and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended traffic signalization.
 - b. Pedestrian and bicycle safety and access.
 - c. Emergency vehicle access to and throughout the site.
 - d. Storm water drainage, based upon a twenty-five (25) year storm intensity occurrence, utilizing on-site absorption wherever practical, and considering the contours of the land. (5/6/99)
 - e. Water supply, and wastewater and solid waste disposal.
 - f. Off-street parking and loading.
 - g. Environmental factors such as pollution, noise, odor, and protection of natural features.
 - h. A landscape plan in keeping with the general character of the surrounding area.
 - i. Signing and exterior lighting.
 - j. Conformance with all existing codes (including, but not limited to, the Town's Zoning Ordinance, Building Code, Subdivision Regulations, and any other applicable State and/or Local codes). (11/19/91)
 - k. Cooperation with the Planning Objectives of the Town, as discussed in the Town's Master Plan.
 - l. Public Utility service approved by the serving companies.
 - m. Board of Assessors review for Timber Cut Permit.
 - n. Disposition of stumpage.

Section 3.2. Submission Procedures

- 3.2.01. The procedure for site plan approval consists of: Preliminary Conceptual Consultation Phase, Design Review Phase, and a Final Phase.
- 3.2.02. All applications made to the Board for Site Plan Review shall be submitted to the Planning Board Secretary at least thirty (30) days prior to the date of a Planning Board meeting at which the applicant wishes to appear.
- 3.2.03. Applications and plans will be reviewed by the Board's Designated Representative within ten (10) days after the filing of the application to determine if the application and plans conform to the requirements of these regulations. Applicants will be notified of any deficiencies which must be corrected in order to be placed on a Board agenda for formal consideration.
- 3.2.04. After such notice of non-conformance, the applicant may revise the plan(s). The revised plan(s), which must meet the requirements of a completed application as reflected on the checklist, shall be re-submitted at least fourteen (14) days prior to the Planning Board meeting at which the applicant or his agent wishes

to appear. Approval of State agencies is not mandatory for an application to be considered but such approvals must be provided as a condition of final approval.

- 3.2.05. Any plans, revisions, or resubmittals to be placed on the Board's agenda must be submitted to the Planning Board secretary at least fourteen (14) days before the meeting at which the applicant or his agent wishes to appear.
- 3.2.06. Adherence to these requirements will qualify a completed application to be placed on the Board's agenda. The Board will accept a completed application only at a properly noticed public meeting of the Board. Assignment to agenda will be in the order of receipt.
- 3.2.07. A completed application sufficient to invoke jurisdiction of the Board, shall consist of all data required as reflected in Section 5.1.01 and the checklist (Appendix B) of these regulations, or as reflected in Section 5.2.01 for home businesses; a complete list of abutters as indicated in Town records not more than five (5) days before the day of filing; names and business addresses of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board; payment of fees per the approved schedule; one reproducible Mylar; and eight (8) prints of the site plan on paper.
- 3.2.08. Approval of a site plan shall be by affirmative vote of the majority of the Board present at the meeting. The plan is certified by the signatures of the Board Chairman or Co-chairman and the date of approval on the plan. The plan will not be approved until all fees have been paid by the applicant.
- 3.2.09. The Board may grant conditional approval of an application if the remaining actions on the application: are administrative in nature; do not involve discretionary judgment by the Board; and/or involve the applicant's possession of permits and approvals granted by other boards or agencies, such as the Wetlands Board, the Department of Transportation or the Water Supply and Pollution Control Division. In these instances, final approval may be granted without further public hearing. A public hearing will be required to demonstrate compliance with the terms of all other conditions pursuant to RSA 676:4,I(i). Final approval will be granted when the conditions have been met to the satisfaction of the Board.
- 3.2.10. If an application is not approved, the reasons for the disapproval will be clearly stated in the Board's records and in written notice provided to the applicant within ten working days of the public hearing.
- 3.2.11. Every plan approved by the Planning Board and properly recorded in the registry of deeds shall be exempt from all subsequent changes in non-residential site plan regulations and zoning ordinances as set forth in RSA 674:39, as that law is from time to time amended. For the purposes of RSA 674:39 and this section, "active and substantial development or building" is defined in Section 2 of these regulations. (8/21/97)

Section 3.3. Preliminary Conceptual Consultation Phase

- 3.3.01. The Preliminary Conceptual Consultation phase is a conceptual, first draft, review of a proposed site plan.
- 3.3.02. Abutter notifications are not necessary for this Phase.
- 3.3.03. Discussions between the Board, its agents and the applicant shall be in general terms and shall not be binding to either the Board or the applicant.

Section 3.4. Design Review Phase

- 3.4.01. The Design Review Phase are non-binding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details.
- 3.4.02. The Design Review Phase may proceed only after identification of and notice to abutters and the general public, as required.

Section 3.5. Final Phase

- 3.5.01. The Board shall review the plat (s) submitted in the Final Phase from the point of view of a total project. Acceptance and approval by the Board shall constitute an agreement between the Town and the applicant that the development of the land in question shall be done as detailed on the final plat(s).

3.5.02. Deviation from the approved final plat(s) requires the approval of the Board.

Section 3.6. Fees

- 3.6.01. Application Fees shall be submitted in accordance with the fee schedule outlined in APPENDIX C: FEES and shall accompany the submission of the site plan. Failure to pay such costs shall constitute valid grounds for the Planning Board to terminate further consideration of the application. (5/6/99)
- 3.6.02. Expenses for plan review, pursuant to RSA 676:4,I(g), incurred by the Planning Board in having the proposed non-residential site plan reviewed by a consulting engineer or other planning consultant, in making environmental impact, hydrological impact, ground water quality impact, traffic impact, and other special studies, or any other study deemed necessary by the Planning Board in order to make an informed decision on the subject plan; and in preparing or reviewing performance bonds, deeds and other documents shall be borne by the applicant. All plan reviews, impact studies, and document reviews shall be made by planners, surveyors, engineers, soil scientists, wetland scientists, technical consultants, attorneys, and other professionals retained by the Planning Board. No employment or other contractual relationship shall exist between the professional and the applicant. All expenses incurred by the Planning Board and the Town of Brookline in processing an application for non-residential site plan approval and inspections of such sites shall be borne by the applicant. (5/6/99)
- 3.6.03. Engineering review for each non-residential site plan shall be required by the Planning Board at the expense of the applicant in accordance with RSA 676:4I(g). In accordance with RSA 676:4-I(g). Cost for such services shall be paid by the applicant to the town of Brookline. The Planning Board reserves the right to add to and/or enlarge the Scope of Services agreed to be provided hereunder when and if the Planning Board, in the course of review of the application, determines that further advice of the engineer is necessary. (5/6/99) (4/17/2008)
- 3.6.04. For all approved sites, cost for engineering inspections shall be borne by the applicant and paid to the Town of Brookline. Upon receipt of the invoice sent by the Town Engineer or any other engineering company for inspections performed, the Planning Board will bill the applicant directly. The applicant will be given a maximum period of 14 (fourteen) days to pay the bill, by check or money order. If the payment is not received within the initial 14 (fourteen) day period, an administrative fee will be charged to the applicant to resend the bill. If a payment is not received within 14 (fourteen) days after a second bill is sent to the applicant, all inspections will stop. The Town of Brookline shall receive written documentation from the inspecting engineer that the project has been constructed according to the approved plans and to the satisfaction of the Planning Board's project inspector. The building inspector will not issue a Certificate of Occupancy until all required improvements are constructed as shown on the approved site plan. (5/6/99) (04/17/2008)

SECTION 4. PLAT REQUIREMENTS

Section 4.1. Compliance

The applicants shall familiarize themselves with all State and Town regulations relative to health, buildings, roads and other pertinent data, so that he/she is aware of the obligations and standards expected.

Section 4.2. Character of Land

- 4.2.01. The site to be used shall be, in the judgment of the Board, of such character that it can be used for the building purposes without danger to public health or safety, or to the environment.
- 4.2.02. Land of such character that it cannot be safely used for building purposes because of exceptional danger to the health or peril from fire, flood, or other menace shall not be plotted for residential occupancy, nor for any other uses as may increase danger to health, life, or property or aggravate the flood hazard until appropriate measures have been taken by the owner or his agent to lessen such hazards.
- 4.2.03. Lots created shall provide adequate capacity for sanitary sewage disposal.
- 4.2.04. Sites shall conform with all regulations of the Board, the Zoning Ordinances, Water Supply and Pollution Control Regulations, and other applicable by-laws, ordinances and regulations at Federal, State and Local levels.
- 4.2.05. No privately owned reserved strip, except an open space area, shall be permitted which controls access to any part of the or to any other parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated.

Section 4.3. Lot Layout

- 4.3.01. The layout shall conform to the requirements of the Zoning Ordinance and shall be appropriate for the intended construction.

Section 4.4. Existing Features

- 4.4.01. Due regard shall be given to the preservation of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, historic landmarks, stone walls, and other significant features.

Section 4.5. Fire Protection

Any lot on which a dwelling unit, commercial building or occupied structure that requires a building permit shall be subject to the requirements of this section for the purpose of protecting life and safety. Any water supply constructed or upgraded for the purpose of fire protection shall be approved by the Planning Board, with consultation with the Fire Engineers and Town Engineer, prior to final approval. The final determination to require the construction of a fire protection water supply and the type of water supply to be constructed rests with the Planning Board and Fire Engineers. (10/21/04)

- 4.5.01 General Provisions. All site plans, if not within 2,500 feet of an approved water source (as measured by using driveways, roads and access areas for fire trucks as approved by the Board of Fire Engineers), will either require a cistern(s) to be installed at a location approved by the Board of Fire Engineers, in accordance with the provisions of Appendix G, cistern specifications; or a sprinkler system, in accordance with the provisions of Appendix I, Sprinkler System Specifications. The requirement for either a cistern or sprinkler system shall be made by the Board of Fire Engineers. If sprinkler systems are to be installed, plans must be submitted by a fire sprinkler company in accordance with the requirements of Appendix I of these site plan regulations. (10/21/04)

- 4.5.02 When deemed necessary by the Board of Fire Engineers, an access easement to a water supply source shall be provided to the Town. All easements shall have standard language acceptable to the Town of Brookline and shall be reviewed and approved by Town Counsel and the Planning Board prior to final subdivision approval. (10/21/04)
- 4.5.03 Access to Gates. For commercial sites or locations in which a gate or chain is present, the placement of an approved “Knox Box” shall be required for emergency access to the property. (10/21/04)

Section 4.6. Parking and Drive-through Facilities

4.6.01. Parking Provision

Parking spaces shall be provided in accordance with the specifications in Appendix A whenever any new use is established.

- a. Driveways cannot be used as part of the required parking area in the Industrial-Commercial District.
- b. Any use not referred to or listed in Appendix A shall provide parking as required by the Planning Board.
- c. Parking provision for any combination of uses on the same site shall consider the opportunity for combined visits (i.e. one parking space in front of a gas station pump may count as one parking space for both the convenience store and the gas station in a combined gas station/convenience store development).
- d. Shared parking arrangements with adjoining non-residential developments or other uses on site are encouraged. Off-site shared parking shall be protected with a shared parking easement agreement which shall be reviewed and approved by the Planning Board and recorded with the approved site plan.
- e. The minimum parking requirement may be provided by on-street parking when on-street parking is provided within 600 feet of the proposed development. A parking study outlining the ability of on-street parking to accommodate the proposed development shall be submitted to the Planning Board for approval.

4.6.02. Size of parking spaces and drive aisles

- a. Spaces shall be 9 feet x 18 feet, exclusive of drive aisle width. A maximum of 50% of the required parking spaces are encouraged to be compact car spaces. Compact car spaces shall be 9 feet x 17 feet, exclusive of drive aisle width.
- b. Drive aisle width shall be 24 feet minimum, 26 feet maximum (either one or two way circulation) for 90° (perpendicular) parking. Aisle width shall be 12 feet minimum, 14 feet maximum (one-way circulation only) for 0° (parallel) parking. When any combination of these types of parking is used, facing the same aisle, the more restrictive drive aisle width requirement shall apply.

4.6.03. Location of parking lots

- a. Parking shall be located within 600 feet of the principal use and connected to the principal use by a 5 foot wide pedestrian path.
- b. Parking shall not be permitted in the front setback nor between the principal structure and a public street, including corner lots. Parking may be located to the side or rear of the principal structure. The Planning Board may waive this requirement in situations where lot configuration and/or use renders such parking lot location impractical. See Diagram 1.

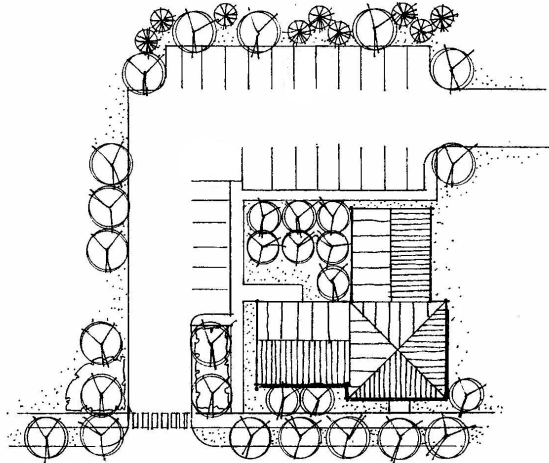


Diagram 1. Parking to Side and Rear of Principal Structure

4.6.04. Design of parking lots

Parking lots shall meet the following design criteria:

- a. To ensure safe pedestrian circulation 0° (perpendicular) or 90° (parallel) parking spaces are encouraged. Angle parking may be permitted by the Planning Board upon demonstration by the applicant that perpendicular or parallel parking is unfeasible.
- b. A minimum 5 foot wide pedestrian path shall be continuous throughout the site, from adjacent streets, sidewalks and parking area(s) to the entrances of all structures. Pedestrian paths shall be marked by accent strips of brick, concrete block or textured paving materials to define pedestrian walkways and crosswalks. Pedestrian paths are encouraged to be landscaped with one shade tree for every 40 feet of path. Pedestrian paths may be incorporated with accessible routes as required by the Americans' with Disabilities Act, as amended. See Diagram 2.

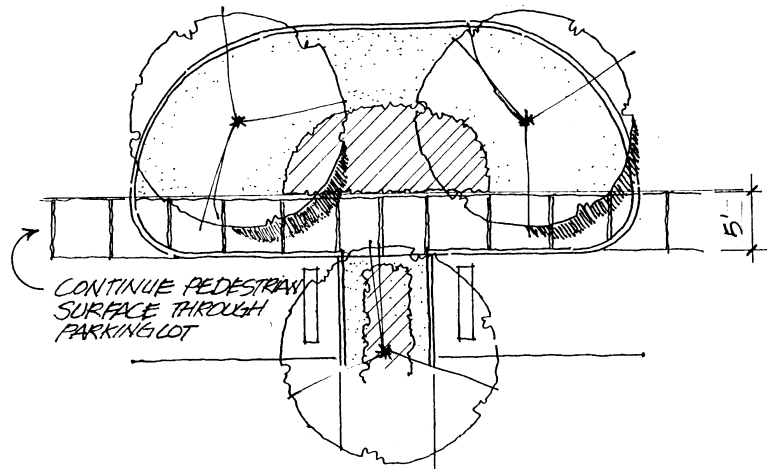


Diagram 2. Pedestrian Access

- c. Parking areas shall be screened from all views off site using land forms, shade trees and/or fences of a design in keeping with the surrounding area. See Diagram 3.

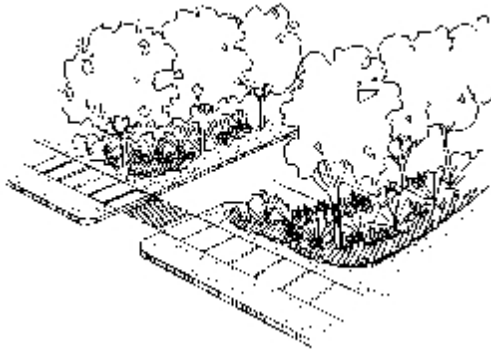


Diagram 3. Well Screened Parking Area

- d. Continuous off-street vehicle routes shall be no more than 200 feet in length before interruption by pedestrian crosswalks over speed tables, T-intersections or other design element to calm vehicle movement on site.
- e. Every effort shall be made to use pervious parking surfaces as an alternative to impervious asphalt or concrete. Pervious paving areas can be used to facilitate groundwater recharge and reduce the need for curbs and gutters as drainage features.

4.6.05. Drive in facilities

Any proposed facility which services its clients or customers from structures accessible to drivers while in their vehicles shall have sufficient length and width of access road to accommodate a minimum of three (3) and a maximum of five (5) waiting vehicles in single file. Such waiting areas:

- a. Shall provide a minimum of 8 feet x 20 feet and a maximum 9 feet x 22 feet per vehicle.
- b. Shall not obstruct or interfere with access or egress from any regular parking spaces or pedestrian or accessible route that may be required because of regular business use.
- c. Shall not be located between the principal structure and a public street. (6/21/01)

Section 4.7. Off-Street Loading

- 4.7.01. Every non-residential building or structure which is used for acceptance or distribution of materials or merchandise by vehicles, and having up to 5,000 square feet of gross floor area, shall provide at least one loading/unloading space. One additional space shall be provided for every additional 10,000 square feet of gross floor area in the building.
- 4.7.02. Each off-street loading space shall be at least twelve (12) feet in width and at least sixty (60) feet in length, exclusive of aisle and maneuvering spaces and shall have a vertical clearance of at least fourteen (14) feet; however, when it is demonstrated that a particular loading space will be used by shorter trucks, the minimum length may be reduced to thirty-five (35) feet.
- 4.7.03. All required loading/unloading spaces shall be located on the same lot as the use served. No loading space for vehicles over two ton capacity shall be closer than fifty (50) feet to any property in a residential zone unless completely enclosed by a fence, wall, or screen.
- 4.7.04. Off-street loading spaces shall be designed and constructed so that all maneuvering for loading and unloading can occur entirely within the property lines of the use. Off-street loading spaces shall not hinder

the free movement of pedestrians and vehicles over a sidewalk, street, road, highway, or deeded rights-of-way.

- 4.7.05. These off-street requirements shall apply when a building is enlarged or increased in capacity.
- 4.7.06. Loading areas shall be screened from adjacent properties when abutting a residential zone, as required in Section 4.8.04:
 - a. Use of existing vegetation and terrain where possible, or
 - b. New planting, grade separations, berms, fences.

Section 4.8. Landscaping

- 4.8.01. A landscape plan shall be included as part of the site plan to include proposed grading and existing and proposed vegetation by species, size, and location.
- 4.8.02. Where a commercial lot abuts a residential lot, a naturally vegetated buffer at least ten (10) feet in width, composed of mature wooded vegetation, must be retained, or, in cases where such a buffer does not exist, one must be created and maintained as follows: A dense screen not less than four (4) feet high and ten (10) feet in width at planting, composed of shrubbery and trees with at least 50% of the plantings being evergreens, and/or, an opaque and neatly maintained fence not less than six (6) feet high which runs along the entire commercial / residential property line(s) or as required by the Planning Board, must be provided in a manner that does not impede sight distances. Plants considered to be exotic invasives by the New Hampshire Department of Agriculture, and/or included on the State of New Hampshire prohibited invasive species list with conditions, must not be used as landscaping materials. Buffer specifications must be provided on the site plan, and are subject to Planning Board approval. (6/03/04)
- 4.8.03. Parking lots of more than 15 spaces or more than 10,000 square feet shall be landscaped according to the following specifications:
 - a. Greenspace: Interior landscaping or green space is required in an amount equal to at least five (5) percent of the total parking area. A minimum of one tree for every 15 parking spaces shall be provided, with shade trees of at least two (2) inch diameter or eight (8) feet in height. Trees shall be planted in accordance with proper horticultural practices. Traffic islands should accommodate trees with a mature canopy.
 - b. Peripheral landscaping may be required along all sides of a parking lot that abuts adjoining property.
 - c. Existing vegetation should be retained on the site to the maximum extent feasible.
 - d. Screening shall be provided for visual separation of incompatible uses as required in each zone. When screening is required it shall be approved by the Board and provide a reasonably effective year-round visual buffer by:
 - (i) Use of existing vegetation and terrain where possible, or
 - (ii) New planting, grade separations, berms, fences.
- 4.8.04. The Planning Board may require additional amounts of landscaping when it determines that the landscape guidelines as related to a particular development do not provide adequate landscaping, or less landscaping where it feels that the adjoining properties may be less than normally affected by the proposed development.

Section 4.9. Sidewalks and Pedestrian Access

- 4.9.01. Sidewalks may be required if the Board concludes, based on evidence in the record before it, that the requested approval will create a need for a sidewalk to protect the public health and safety.
- 4.9.02. If required, sidewalks must be located alongside the road and must meet the requirements of the Americans with Disabilities Act, as amended.

- 4.9.03. Sidewalks can either be in the street right-of-way or within an individual lot.
- 4.9.04. Paved or gravel access ways may be required to provide pedestrian access to adjacent lots if the Board concludes that such facilities are necessary to protect the public health and safety.

Section 4.10. Hours of Construction

Hours of construction may be restricted in certain situations. (8/21/97)

Section 4.11. Site Reclamation Standards for On-Site Stump Burial Standards

- 4.11.01. The Planning Board or its designee shall periodically inspect site plan operations and shall perform a final reclamation inspection in order to ensure that the approved plans have been followed.
- 4.11.02. No slope in soil material shall be left steeper than 3:1 (three horizontal feet for each one foot of vertical drop) unless it can be demonstrated by the applicant that a steeper grade can be adequately vegetated and stabilized. Under no case shall a soil material slope be left steeper than 2:1.
- 4.11.03. All debris, boulders, etc. shall be lawfully disposed of in a manner acceptable to the Planning board or its designee.
- 4.11.04. Ground levels and grades shall be established as shown on the approved reclamation to a maximum of 6 (six) feet above the existing grade. Reclamation shall be completed as soon as practical but no later than 1 (one) year after burial.
- 4.11.05. Reclaimed area shall be backfilled with 18” to 24” of select material above top level of stumps. Stockpiled topsoil shall be spread over select material to a 4-6” depth to allow and maintain vegetation. Additional topsoil may be brought onto the site if required by the Planning Board or its designee for proper reclamation. The disturbed area(s) shall be fertilized, if necessary, and seeded with a grass or grass-legume mixture.
- 4.11.06. Plantings in accordance with an approved reclamation plan shall be protected from erosion during an appropriate establishment period by mulch and structural erosion control devices. No area shall be left in such a condition that erosion of the area after completion of the work may result in water pollution by silt or other deleterious substances.
- 4.11.07. Upon completion of the reclamation operations, the topography of the land shall be left so that water draining from the site leaves according to the approved reclamation plan.
- 4.11.08. Unless waived in writing or otherwise stipulated by the Planning Board, areas adjacent to the stump burial, including access points, from which trees have been removed shall be planted with two-year old plants or plants furnished under a standard nursery order. Type of plants selected shall be included in *Trees and Shrubs in New Hampshire – A Guidebook for Natural Beauty Projects* (Extension Bulletin No. 163, revised, published May 1980 by the Cooperative Extension Service of the University of New Hampshire, Durham, New Hampshire.) Seedlings without center buds or seedlings with pruned roots will not be accepted.
- 4.11.09. The applicant shall provide a reclamation plan with the Non-residential Site Plan Application. On-site stump burial and reclamation plans shall comply with all requirements of these regulations and State of NH Requirements, as amended.

(Section 4.11 Adopted 5/6/99).

SECTION 5. TELECOMMUNICATIONS FACILITY SITE REQUIREMENTS

Section 5.1. General Requirements

- 5.1.01. In reviewing and approving the non-residential site plan, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse impact of the proposed tower or antenna on adjoining properties, and preserve the intent of this ordinance. The following factors are to be considered in reviewing the application:
- a. Height of proposed tower or other structure.
 - b. Proximity of tower to residential development or zones.
 - c. Nature of uses on adjacent and nearby properties.
 - d. Surrounding topography.
 - e. Surrounding tree coverage and foliage.
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - g. Proposed ingress and egress to the site.
 - h. Availability of suitable existing towers and other structures as discussed in Section 1900 of the Zoning Ordinance.
 - i. Visual impacts on viewsheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
 - j. Availability of alternative tower structures and alternative siting locations.

Section 5.2. Construction Performance Requirement

The guidelines in this section shall govern the location of all towers, and the installation of all antennas. The Planning Board may waive these requirements in accordance with Section 1908 of the Zoning Ordinance, only if it determines that the goals of this ordinance are served thereby. These requirements shall supersede any and all other applicable standards found elsewhere in Town ordinances or regulations that are less strict.

- 5.2.01. Location
- a. Preferred locations for new telecommunication facilities include existing towers, public buildings excluding schools, commercial buildings, sites along Route 13, utility poles and towers, and Town-owned land.
 - b. Disfavored locations for new telecommunication facilities include residentially-developed property, property near the Brookline airport, wetlands, historic sites, churches, and schools.
- 5.2.02. Height Requirements

	<i>New Tower Construction</i>	<i>Co-location on Existing Tower or Structure</i>
<i>Industrial-Commercial District</i>	Shall not project higher than thirty (30) feet above the average tree canopy height or exceed one hundred eighty (180) feet measured from ground level	Shall not project higher than thirty (30) feet above the height of the existing tower or structure, or exceed one hundred eighty (180) feet measured from ground level
<i>Residential-Agricultural District</i>	Shall not project higher than ten (10) feet above the average tree canopy height or exceed one hundred (100) feet measured from ground level	Shall not project higher than ten (10) feet above the height of the existing tower or structure, or exceed one hundred (100) feet measured from ground level

Should the existing tree cover grow above the height of the tower by natural means, the owner may petition the Planning Board to increase the tower height which shall not exceed the height standards defined above.

5.2.03. Aesthetics and Lighting

- a. Towers shall maintain a neutral, non-reflective, naturally oxidizing color so as to reduce visual obtrusiveness.
- b. The design of the buildings and related structures at a tower site and antennas and supporting equipment on structures other than a tower shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment. Facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them. To the extent that any facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a hue which blends with sky and clouds or be disguised as vegetation.
- c. Towers shall not be artificially lighted.
- d. Lighting of equipment structures and any other facilities on site with flood lights, external building lights and driveway lights, shall be shielded from abutting properties.
- e. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind, except for those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's Sign Ordinance.
- f. Ground-mounted equipment for telecommunication facilities shall not generate noise in excess of 50 db at the property line. Roof-mounted or side-mounted equipment for telecommunication facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

5.2.04. Setbacks and Separation

- a. Free-standing towers must be set back a minimum distance equal to one hundred twenty-five (125) percent of the height of the tower from any off-site residential structure and property line, and one hundred (100) percent from any off-site commercial structure and property line. However, the Planning Board may reduce the setback distance by as much as fifty (50) percent if it finds that a substantially better design will result.
- b. Towers and accessory facilities must satisfy the minimum zoning district setback requirements.
- c. Towers over ninety (90) feet in height shall not be located within one mile of any existing tower that is over ninety (90) feet in height.

5.2.05. Security Fencing

Towers, including guy wire anchors, shall be enclosed by decay-resistant security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device or other similar device to prevent tower access.

5.2.06. Landscaping

- a. Towers, including guy wire anchors, shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip of at least ten (10) feet wide outside the perimeter of the compound.
- b. Natural vegetation is preferred, and existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

- c. In locations where the visual impact of the tower would be minimal or where natural growth provides a sufficient buffer, the landscaping requirement may be reduced or waived entirely.

5.2.07. Access Roads

All access roads shall meet the Town's Driveway Regulations and shall require a driveway permit as defined in Section 7 of the Subdivision Regulations. In addition, all access roads shall comply with the landscaping requirements contained in Section 5.2.06.

5.2.08. Building Codes and Safety Standards

To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the Brookline Building Code and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. Failure to bring a tower into compliance within thirty (30) days of notice being provided to the owner by the Town shall constitute abandonment and grounds for the removal of the tower or antenna in accordance with Section 1908.

5.2.09. Federal Requirements

All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government with the authority to regulate towers and antennas. Failure to bring towers and antennas into compliance with revised standards and regulations within six (6) months of their effective date shall constitute grounds for the removal of the tower or antenna in accordance with Section 1908.

5.2.10. Monitoring and Maintenance

- a. After the telecommunication facility is operational, and at annual intervals from the date of approval, the applicant shall submit measurements of Radio Frequency Radiation (RFR) from the facility. Such measurements shall be signed and certified by an RF engineer, stating that the RFR measurements are accurate and meet FCC guidelines.
- b. After the telecommunication facility is operational, and at annual intervals from the date of approval, the applicant shall submit measurements of noise from the facility. Such measurements shall be signed by an acoustical engineer, stating that the noise measurements are accurate and meet the noise standards of Section 5.2.03.
- c. The applicant shall maintain the telecommunication facility in good condition. Such maintenance shall include, but not be limited to, painting, ensuring the structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping. After the telecommunication facility is operational and at biannual intervals from the date of approval, the applicant/owner shall submit a report certifying compliance with the local regulations and any conditions of the plan approval along with a report certifying the structural integrity of the telecommunications Tower/antenna by a structural engineer.

SECTION 6. SUBMISSION REQUIREMENTS

Section 6.1. Submission Requirements

- 6.1.01. When the owner of the property or the applicant makes a formal application for site plan review, his/her application shall contain at least the following exhibits and information (see also the site plan review checklist - Appendix B):
- a. A fully completed application for site plan review and fee payment.
 - b. The final site plan shall be in permanent black ink, on reproducible Mylar (electrostatic Mylars are not acceptable). It shall be filed together with eight (8) blue (black) line prints of the site plan on paper prepared by a registered land surveyor drawn to a scale sufficient to allow review of the items listed under the preceding general standards, but at not more than fifty (50) feet to the inch for that portion of the total tract of land being proposed for development, and showing the following: (maximum size of drawing shall be 22 x 34 inches).
 - c. Owner's name and address.
 - d. Names and addresses of all abutting property owners according to Town tax records and the names and business addresses of every engineer; architect; land surveyor; or soil scientist whose professional seal appears on any plan submitted to the Board.
 - e. Sketch map showing general location of the site within the Town done at the scale of the municipal base map.
 - f. Boundary of the entire parcel held in single ownership regardless of whether all or part is being developed at this time, and any municipal boundaries.
 - g. The bearing and distances of all property lines and the source of this information.
 - h. Zoning classification(s) of the property and the location of zoning boundaries if the property is located in two or more zones.
 - i. High Intensity Soils Maps as certified by a qualified Soils Scientist.
 - j. The location of all buildings setbacks required by the Zoning Ordinance.
 - k. The location, height, size, and character of all signs and exterior lighting.
 - l. The lot area of the parcel, street frontage, and the zoning requirements for minimum lot sizes and frontage.
 - m. The location of all existing and proposed buildings, including expansion of existing buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, service areas, easements and landscaping, and screening. Also indicate which of such features are to be retained and which are to be removed or altered.
 - n. The location of all buildings within fifty (50) feet of the parcel to be developed and the location of intersecting roads or driveways within two hundred (200) feet of the parcel.
 - o. A storm drainage plan showing:
 - (i) The existing and proposed methods of handling storm water runoff.
 - (ii) The direction of flow of the run off through the use of arrows.
 - (iii) The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers.
 - (iv) Engineering calculations used to determine drainage requirements shall be based on a ten (10) year storm frequency, except for projects that will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and

- building area), cross culverts and existing waterways, which shall be designed for a twenty-five (25) year storm frequency. (04/17/2008)
- p. Existing and proposed topography of the site at two (2) foot contour intervals. (8/21/97)
 - q. For subdivisions and site plans that involve land designated as "Special Flood hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP), the Planning Board shall:
 - A. 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 Amendment of 1972, 33L.S.C. 1334,
 - B. 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),
 - C. Require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow 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. (8/21/97) (04/17/2008)
 - r. A layout indicating how the site will be served by electric, telephone, and any other public utility must be provided. If the utility company(s) requires an easement to provide service, no final approval shall be granted by the Board until such easements are secured. If no easements are required, a letter of intent to provide service from the utility company(s) must accompany the application.
 - s. A buffer zone of dense planting where the site abuts a zone boundary.
 - t. A Soil and Erosion Control Plan for permanent and temporary (construction phase) protection (see Section 6.4). (8/21/97)
 - u. Copies of any proposed or existing easements, covenants, or deed restrictions.
 - v. Copies of all applicable federal, state and local approvals and permits including:
 - (i) N.H. Department of Environmental Services (DES) Water Supply and Pollution Control Division (WSPCD) Subsurface Sewage Disposal Approval Permit;
 - (ii) N.H. DES WSPCD Site Specific Permit;
 - (iii) N.H. Wetlands Board Dredge and Fill Permit;
 - (iv) Army Corps of Engineers Dredge and Fill Permit; and
 - (v) New Hampshire Department of Transportation Curb Cut Permit.All permit numbers shall be noted on the plat. (8/21/97)
 - w. The Board may require the owner or his authorized agent to deposit in escrow with the Town an amount of money sufficient to cover the costs for any professional review of the site plan documents which the Board may feel is reasonably necessary to protect the general welfare of the Town.
 - x. Magnetic and true North point.
 - y. Location of fire ponds and fire protection drafting sites, if any. (04/17/2008)
 - z. Wet areas as defined by the Wetlands Ordinance, in square feet of wet and non-wet.
 - aa. Location of soil test pits and accompanying test pit and perc data.

- bb. Access for fire fighting apparatus.
- cc. A Planning Board Approval Block.
- dd. Date the plans were first drafted. Any revision(s) made to any of the sheets first submitted are to be so noted in the revision block. The revision block is to be placed on the Mylar original(s) of the revised sheet(s).
- ee. Any other information felt necessary by the Planning Board to allow the Board to proceed with consideration, and to make an informed decision.
- ff. An artist's rendition of the site, including landscaping and signage.
- gg. A letter stating the proposed disposal of tree stumps. If they are to be disposed of on site, areas shall be shown on the plat, and a reclamation plan shall be submitted as part of the application. Stump burial shall be directed to the side and rear set back areas along property boundaries as possible. Stump burial sites shall be located a minimum of 25' from the edge of septic systems, 75' from wells, and 75' from the edge of a wetland. (5/6/99)

Section 6.2. Submission Requirements for Home Businesses:

- 6.2.01. When the owner of the property or the applicant makes a formal application for site plan review of a home business, his/her application shall contain at least the following exhibits and information:
- a. A fully completed application for site plan review and fee payment.
 - b. Four copies of the sketch plan for the site, which may or may not be prepared by a registered professional, showing the following:
 - (i) name and address of the owner of record and name of the applicant, if not the owner;
 - (ii) the tax map lot number and general location of the site within the Town;
 - (iii) scale of the plan, north arrow, and date the plan was first drafted;
 - (iv) a description of the proposed home business and its location within the structure/site, along with interior floor plan with dimensions and the estimated square footage devoted to the home business;
 - (v) total area and dimensions of the parcel and street frontage;
 - (vi) location of the required setbacks;
 - (vii) location and dimensions of existing and proposed buildings and structures, driveways, sidewalks, and parking spaces;
 - (viii) location, height, size, and character of all signs and exterior lighting related to the home business;
 - (ix) names, addresses, and tax map lot numbers of all abutting property owners;
 - (x) location of all buildings within fifty (50) feet and existing roads and driveways within two hundred (200) feet of the parcel;
 - (xi) the total number of employees broken down by occupant and non-occupant of the dwelling;
 - (xii) the estimated number of vehicle trips per day generated by the proposed home business;
 - (xiii) proposed hours of operation;
 - (xiv) the location and amount of interior storage of all business-related material;
 - (xv) a signature block;
 - (xvi) copies of all applicable State approvals and permits for activities including septic expansion; alteration of wetlands; and new driveways and curb cuts

- (xvii) any other information felt necessary by the Planning Board to make an informed decision.
- c. One copy of the approved septic plan for the site or a site assessment form displayed in Appendix H.

Section 6.3. Submission Requirements for Telecommunication Facilities (and Appendix B: Checklists)

- 6.3.01. Each applicant requesting non-residential site plan review and approval for a telecommunication facility shall submit a plan in accordance with the requirements of Section 1900 of the Zoning Ordinance and with Section 6.1 of these Non-Residential Site Plan Review Regulations. In addition, the applicant shall submit the following prior to any approval by the Board:
- a. Additional plat information: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, access drives, parking, fencing, landscaping, and adjacent uses (up to 200 feet away).
 - b. Written proof that the proposed use/facility complies with Federal Communications Commission regulations, as amended, on radio frequency (RF) exposure guidelines, as well as the complete RF plan and long-range coverage plan to provide service to the entire Town.
 - c. Written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable Federal Communications Commission (FCC) rules.
 - d. An inventory of its existing towers that are within the jurisdiction of the Town and those within two (2) miles of the border of the Town, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals under these regulations or other organizations seeking to locate antennas within the jurisdiction of the Town.
 - e. Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower.
 - f. A written agreement with the Town specifying that the applicant agrees to provide for maximum shared use of the facility with other telecommunication providers and with governmental agencies at industry standard lease rates. The applicant shall also provide notice to all commercial carriers in the region that a new facility is to be erected and that an opportunity for co-location exists.
 - g. A viewshed analysis to include, at minimum, a test balloon moored at the site for the purpose of indicating the visibility of the proposed structure from all abutting streets and other key locations.
 - h. Engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with RSA 676:4(g).
 - i. Any other information deemed necessary by the Planning Board to assess compliance with Section 1900.
 - j. File a report with the Town of Brookline Planning Department for biannual inspections of both the tower structure and emissions.

Section 6.4. Soil Erosion and Sedimentation Control

- 6.4.01. To be eligible for certification, a soil erosion and sedimentation control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the likelihood of excessive stormwater runoff from the proposed site, based on the best available technology. Such principles, methods, and practices necessary for certification are found in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1987) as amended. Alternative principles, methods, and practices may be used with prior approval of the Board.

- 6.4.02. Said plan shall contain, but not be limited to:
- a. A narrative describing:
 - (i) the development;
 - (ii) the schedule for grading and construction activities including:
 - the start and completion dates
 - the sequence of grading and construction activities
 - the sequence for installation and/or application of soil erosion and sediment control measures;
 - the sequence for final stabilization of the project site.
 - (iii) the design criteria for proposed soil erosion and sediment control measures and stormwater management facilities.
 - (iv) the construction details for proposed soil erosion and sediment control measures and stormwater management facilities.
 - (v) the installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater management facilities.
 - b. A site plan map which clearly shows:
 - (i) the location of the proposed development and adjacent properties.
 - (ii) the existing and proposed final topography including soil types, wetlands, watercourses and water bodies
 - (iii) the existing structures on the project site, if any
 - (iv) the proposed area alterations including cleared, excavated, filled, or graded areas and proposed utilities, roads, and if applicable, new property lines, and the general location of the proposed structures and driveways.
 - (v) the location of and design details for all proposed soil erosion and sediment control measures and stormwater management facilities.
 - (vi) the sequence of grading and construction activities;
 - (vii) the sequence for installation and/or application of soil erosion and sediment control measures;
 - (viii) the sequence for final stabilization of the development site.
 - c. Any other information deemed necessary by the applicant or requested by the Board.
- 6.4.03. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the planning considerations specified in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire, as amended. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed and does not cause off-site erosion and/or sedimentation.
- 6.4.04. The minimum standards for individual measures are those in the Handbook. The Planning Board may grant exceptions when requested by the applicant if technically sound reasons are presented.
- 6.4.05. The Soil Conservation Service method as outlined from Appendix 1 of the Handbook, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Board.
- 6.4.06. The Planning Board shall either certify that the soil erosion and sedimentation control plan, as filed, complies with the requirements and objectives of this regulation or deny certification when the development proposal does not comply with these regulations.

- 6.4.07. Prior to certification, the Board may request that any plan submitted to the Board be reviewed by the County Conservation District which may make recommendations concerning such plan, provided such review shall be completed within thirty (30) days of the receipt of such plan. (8/21/97)
- 6.4.08. The Board may forward a copy of the development proposal to the Conservation Commission or other review agency or consultant for review and comment.
- 6.4.09. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, may be covered in a performance bond or other assurance acceptable to the Board.
- 6.4.10. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.
- 6.4.11. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.
- 6.4.12. All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.
- 6.4.13. Inspections shall be made by the Board or its agent during development to ensure compliance with the certified plan, and that control measures and facilities are properly performed or installed and maintained.
- 6.4.14. The Board may require the permittee to verify, through progress reports, that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.

Section 6.5. Legal Data Required

- 6.5.01. When applicable to a specific site, the following are required, in form and substance as approved by the Town Counsel prior to the approval of the plat:
 - a. Agreement to convey to the Town land to be used for streets and other public purposes, with the transfer of title to such interests to be effective on such date as the Town accepts such land;
 - b. Covenants which shall include a definitive statement of the method of ownership of the common land or open space. (The intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit and common land);
 - c. Covenants permanently restricting the common land or open space from any future subdivision;
 - d. Easements and right-of -ways over property to remain in private ownership;
 - e. Rights to drain onto or across other property, whether public or private, including a street;
- 6.5.02. Deeds covering any land to be used for public purposes, easements, right-of-ways over property to remain in private ownership, right to drain onto or across private property shall be submitted to, and approved by the Board of Selectmen with approval of Town Counsel or any other appropriate Town agency or agent.
- 6.5.03. All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to the Brookline Town Counsel as part of the Final Phase.

Section 6.6. Bonding

- 6.6.01. Prior to the final approval of a plat, a bond or other surety shall be filed with the Planning Board by the subdivider, developer, or his successors, in an amount sufficient to cover the cost of construction or completion of streets, public improvements, landscaping, drainage structures, traffic signals, setting road bounds and bounds at all angles of individual lots, public parks or public recreation areas or other such improvements as required by the Board as shown on the Final Plat. (8/21/97) (5/3/01)

- 6.6.02. Requirements of the Bond shall identify, precisely, the work to be performed, the standards by which satisfactory performance shall be judged. An agent of the Town shall determine whether or not there has been satisfactory performance, and shall be part of the Final phase approval.
- 6.6.03. This Bond may be reviewed by Town Counsel and approved or disapproved as to compliance with the requirements and sureties by the Planning Board. (8/21/97)
- 6.6.04. Performance of the requirements of the Bond shall be completed within one (1) year of the date of the Bond unless extended by a vote of the Planning Board. (8/21/97)

Section 6.7. Permits

- 6.7.01. If, during the course of development of a site, the developer, or his successors shall violate the conditions of the approval, Zoning Ordinances, or the Site Plan Review Regulations of the Town of Brookline, the Board may notify the Selectmen of such violation and request that no further building be allowed until the violation has been satisfactorily corrected.
- 6.7.02. For any site approved hereunder by vote of the Board or by certificate of inaction, a building permit must be obtained within twelve (12) months of said vote or certification, failure to do so shall render approval null and void and no building permit shall be issued except, however when a construction schedule has been approved by the Board.
- 6.7.03. Some applications subject to these regulations may require a schedule of proposed construction that will identify the number of structures to be built each year and the date of final completion. In the event that the applicant does not diligently adhere to his/her schedule, and the Board determines that the applicant is not pursuing completion of the construction in good faith as may be evidenced by inaction on his/her part, the Board may revoke any prior approval to additional phases of the development. No action to revoke this approval will be taken until the applicant has been afforded the opportunity to be heard before the Board. Notice of said hearings will be sent to the applicant by certified mail at least ten (10) days before said hearing.

SECTION 7. ADMINISTRATION AND ENFORCEMENT

Section 7.1. Modification

The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a site, or condition of the land in such site, indicate that such modification will properly carry out the purposes and intent of the Master Plan and of these regulations.

Section 7.2. Acceptance of Streets

Nothing herein is intended to modify the requirements of the law with reference to the acceptance of streets by the Town. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Town or State.

Section 7.3. Other Regulations

Where these regulations are in conflict with other Local or State Ordinances, the more stringent shall apply.

Section 7.4. Enforcement

These regulations shall be enforced by the Board of Selectmen or its duly authorized representative.

Section 7.5. Appeals

Any person aggrieved by an official action of the Board, may appeal therefrom to the Superior Court as provided by RSA 677:17.

Section 7.6. Validity

If any Section, Subsection, or phrase of these site plan review regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

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