

TOWN OF BERNARDSTON

EXPEDITED PERMITTING DISTRICT

Application Package

Assembled by the Planning Board
Last Updated November 2014

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DEVELOPING YOUR EXPEDITED PERMITTING DISTRICT PROPOSAL

Preliminary Research & Contracts

Before spending a large amount of time and money developing a project proposal, you should first contact the Building Inspector. The Building Inspector will be able to tell you if your project meets the Town's regulations, what permits are needed, and approximately how long the process will take. The feasibility of your project is largely based upon the Town of Bernardston Zoning Bylaw, the Town of Bernardston Subdivision Rules and Regulations, and potentially a well permit from the Board of Health, (or Title V of the Massachusetts Code of Regulations 310 CMR 15.00 et seq. and Board of Health permit), the Massachusetts Wetlands Protection Act, Massachusetts Historical Commission Regulations and the Massachusetts Endangered Species Act. Therefore, it is recommended that you review these documents.

Overview of Development Permits

There are six major categories of development permits: zoning, water, health (sewage disposal, wells), road openings, environmental and building. Descriptions of each permit type and where to find more information are provided below.

1. **Zoning:** the Town of Bernardston Zoning Bylaws are available online and at Town Hall, Bernardston, MA during business hours. The Expedited Permitting District is a newly-created district. The Use Regulation Schedule (Section 2230), found in Article 2, indicates which particular uses are allowed by-right, which are not allowed and which development uses will require a special permit, site plan review approval or both. The procedures for special permits and site plan review approval are contained in the Zoning Bylaw.

Subdivision Approval: If the project proposal involves dividing land into lots or parcels and requires the construction of new streets, subdivision approval must be obtained from the Planning Board. If the project does not require new streets, then an endorsement from the Planning Board on an Approval Not Required (ANR) plan is required. The Subdivision Rules and Regulations may be found at the town hall or online.

2. **Water:** Water supply for the development site may be available from the Bernardston Fire and Water District. Rules and Regulations for the District, as well as information on water line connection permits, may be obtained from the District which is a separate entity from the town.

3. Health

- a) **Sewage Disposal:** The developer will need to create appropriate onsite sewage disposal pursuant to Title V of the Massachusetts Code of Regulations at 310 CMR 15.00. The Board of Health oversees inspections and permits.
 - b) **Wells:** An onsite well may be an alternative to connecting to the town water system. An application may be made to the Town of Bernardston's Board of Health for a well permit.
 - c) **Miscellaneous:** Depending upon the type of business proposed, additional permits may need to be obtained from the Board of Health. The Board of Health issues permits for restaurants, food retailers, other certain retail establishments, swimming pools, etc. This agency also enforces the state and local health and environmental codes.
4. **Road Opening Permit:** The Expedited Permitting District is located on a state highway. Therefore, an application for a road opening to Church St/MA-Rt. 5 and 10 must be submitted to the Massachusetts Department of Transportation, District 2.
 5. **Environmental (wetlands; Rivers Protection Act; Natural Heritage and Endangered Species Act and Massachusetts Historical Commission):** There is a perennial stream in both portions of the EPD, so both the Wetlands Protection Act and the Rivers Protection Act apply.
 6. **Building Permit:** Before starting any construction and after obtaining all necessary permits, the Building Inspector issues a building permit. Final reviews of zoning, building and construction and handicapped access for local and state compliance are conducted.

State and Federal Permits: Depending on the nature of the proposed project, permits from the State or Federal government may be required. The most common are:

- Curb-cut from the Massachusetts Highway Department for work affecting a state highway;
- Permit from the U.S. Army Corps of Engineers for work affecting certain wetlands and waterways;
- Certificate of Compliance from the Massachusetts Executive Office of Environmental Affairs for filings under the Massachusetts Environmental Policy Act;
- Stormwater (General Construction) permit from the Environmental Protection Agency for work disturbing an acre or more of land;
- Massachusetts DEP Notice of Intent or Determination of Applicability under the Clean Waters Act and the Massachusetts Wetland Protection Act; and
- An Application for Review must be filed with the Natural Heritage Endangered Species Program for all projects or activities within priority habitat of rare species.



SUBDIVISION RULES AND REGULATIONS OVERVIEW

The Planning Board, under the Bernardston Rules and Regulations Governing the Subdivision of Land, must approve the division of land into two or more lots. All plans showing the creation of new lots must be endorsed by the Planning Board before they can be recorded in the Registry of Deeds. Plans stamped by a registered land surveyor certifying that no new lots or changes in existing boundaries are shown on the plan may be recorded without the Planning Board endorsement.

Pursuant to M.G.L. c 41, section 81L, certain plans showing lots with frontage on existing ways are not subdivisions within the meaning of the statute. These plans will receive “Approval Not Required” (ANR) endorsement if they meet the legal requirements. All other divisions of land will require subdivision approval.

Subdivision

Plans that show a division of land into two or more lots with frontage on a proposed new road require subdivision approval. There is a two step review process for subdivision plans: 1) Preliminary Plans and 2) Definitive Plans.

Preliminary Plans

The preliminary plan serves as a conceptual design. It includes the proposed street layout, lot boundaries, drainage system and topography. Preliminary plans are strongly suggested for all subdivisions, and are required for non-residential development that includes a division of land not on a public way. (Refer to section 3220 of Rules and Regulations Governing the Subdivision of Land for required and expected Preliminary Plan content).

Definitive Plans

A Definitive Plan is the final design plan complete with engineering specifications. This plan must be prepared by a registered Land Surveyor or Civil Engineer. The plan must contain all information required in the Town of Bernardston Subdivision Rules and Regulations including width and length of every street, lot lines, topography, centerline profiles of streets, layout and design of sewage, storm drainage, water supply and wetland resource areas as defined by the Massachusetts Wetland Protection Act.

Review Process and Submittal Requirements

Preliminary Plans: Any person proposing a non-residential subdivision of land shall, before submitting a Definitive Plan, submit to the planning board and the board of health, a Preliminary Plan. The applicant shall give notice to the Town Clerk by delivery or by registered mail, postage prepaid, that a plan has been submitted.

If notice is given by delivery, the Town Clerk shall, if requested, give a written receipt to the applicant. Within forty five days after the submission of a complete Preliminary Plan, each board shall notify the application and the Town Clerk, by certified mail, either that the plan has been approved, or that the plan has been approved with modifications suggested by the board, or agreed upon by the person submitting the plan, or that the plan has been disapproved and in the case of disapproval, the board shall state in detail its reasons for disapproval. The Planning Board will notify the Town Clerk of its approval or disapproval as the case may be.

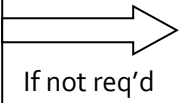
Definitive Plans: Definitive subdivision plans shall be submitted for approval to the Planning Board. The Definitive Plan shall be submitted to the Town Clerk then forwarded to the Planning Board and to the Board of Health. The Board of Health must, within 45 days of the filing with the Town Clerk, report to the Planning Board in writing, approving or disapproving the plan. A public hearing is required prior to approval by the Planning Board. Definitive Plans must meet the requirements of the Town of Bernardston Rules and Regulations Governing the Subdivision of Land. The Planning Board must issue a decision on a Definitive Plan (for which a Preliminary Plan was submitted) within 90 days of receipt of that plan. [N.B. if a subdivision creates ten or more lots, the developer will need to provide an Environmental Analysis of the proposed subdivision, per town subdivision rules and regulations.]

Expedited Permitting District

SUBDIVISION PLAN APPROVAL FLOW CHART

Date Done: _____

Applicant establishes need for Subdivision Plan by speaking with the Building Inspector (BI) (Subdivision Plan is required for 2 or more lots)



Follow Building Permit process

Date Done: _____

Subdivision Plan Required

OR

ANR process

Step 1. Applicant should submit seven (7) copies of a Preliminary Plan and appropriate fee to the Planning Board. Plan should include features listed in s.3220 of the town's Subdivision Rules and Regulations.

Step 2. The Plan will be available for public examination. The Planning Board will schedule a site visit to examine the property.

Step 3. Planning Board will either approve Preliminary Plans with modifications needed or disapprove the Plan with reasons stated within 45 days. If disapproved, the developer can make changes and re-submit.

Step 4. Developer submits eleven (11) copies of a Definitive Plan (see s.3320) along with Forms C, D and E and fee. (For 10 or more lots, an Environmental Analysis is also required)

Step 5. Planning Board submits a copy of a Definitive Plan to the Board of Health (BoH), which shall approve or disapprove plan within 45 days. If not approved, the BoH must supply findings to support its decision and recommendations for adjustments.

Step 6. Simultaneously with Step 5, Planning Board advertises and holds a Public Hearing on the Definitive Plan. Hearing date is posted in the newspaper and abutters are notified (pursuant to Ch 41, s.81T).

Step 7. After the Public Hearing and the BoH report, the Planning Board shall take a vote to approve or not approve the plan. No more than 90 days shall elapse between the filing of the Definitive Plan and the Planning Board vote. If approved, there is a 20 days public appeals waiting period. If no appeals are made, the PB signs the Plan. The developer must then file a copy of the signed Definitive Plan with the Franklin County Registry of Deeds.



APPROVAL NOT REQUIRED (ANR) PLAN OVERVIEW

Prior to 1953, a plan showing lots and ways could be recorded without Planning Board approval, if the ways indicated were already existing and not proposed. The purpose of providing for an ANR process was to alleviate the difficulty Registers of Deeds encountered in deciding whether the ways shown on the plan were already existing ways.

MGL Chapter 41
Section 81L A 'subdivision' is a tract of land divided into two or more lots. However, a tract of land divided into two or more lots shall NOT be deemed to be a subdivision within the meaning of the Subdivision Control Law, if, at the time when it is made, every lot within the tract so divided has the minimum frontage required by the Bernardston zoning bylaws on a certain type of way or as otherwise provided in Section 81L.

MGL Chapter 41
Section 81P Any person wishing to record a plan which he/she believes is not a subdivision plan may submit an ANR plan to the Planning Board. The review of an ANR plan does not require a public hearing. If the Planning Board finds the plan does not show a subdivision, as defined in Section 81L, it must endorse the plan "approval not required under the Subdivision Control Law" or words of similar impact within 21 days.

Bernardston
Subdivision Rules
And Regulations The plan (to be returned to the applicant) and five prints (to be retained by the Town) and Form A (Application for Endorsement of Plan Believed Not To Require Approval) are submitted to the Planning Board in care of the Town Clerk.
The applicant should also file a copy of Form A with the Town Clerk to protect their appeal rights.

MGL Chapter 41
Section 81O A plan shall be submitted when delivered at a meeting of the Planning Board or when sent by registered mail to the Planning Board, care of the Town Clerk. If mailed, the date of receipt shall be the date of submission of the plan.

MGL Chapter 41
Section 81T Every person submitting an ANR plan to the Planning Board must give written notice to the Town Clerk by delivery or registered mail that the plan has been submitted (Copy of Form A). The Town Clerk is the timekeeper in determining whether the Planning Board fails to act in a timely manner (MGL sets a time limit of 21 days).

Three standards must be met in order for lots shown on a plan to be entitled to an endorsement by the Planning Board that "Approval under the Subdivision Control Law is not required." The Planning Board must determine whether:

1. all lots abut a qualified way as follows:
 - a public way or a way which the Town Clerk certifies is maintained and used as a public way, OR
 - a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, OR
 - a way in existence when the subdivision control law became effective (1988) which, in the opinion of the Planning Board, has sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the lots.
2. all lots have adequate frontage; and
3. all lots have adequate area; and
4. vital access exists to each lot (for fire-fighting equipment and other emergency vehicles). Refer to Section 2300, the Dimensional Schedule in Section 2340 and the definition of lot frontage in Article VI of the Zoning Bylaws of the Town of Bernardston for specific requirements.

FORM A

**APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL**



See Section 2400 of the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston. Two (2) copies of this form, filled out and signed, must be submitted to the Planning Board along with the original mylar and five (5) prints of the plan. Fees are \$40 for one lot and \$15 for each additional lot. Please make checks payable to *Town of Bernardston*.

To THE PLANNING BOARD:

The undersigned, believing that the accompanying plan of his/her property in the Town of Bernardston does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Law is not required.

Name of Applicant(s): _____

Address: _____

Phone: _____

Name of Registered Land Surveyor: _____

Address: _____

Phone: _____ E-mail: _____

Deed of Property Recorded in Franklin County Registry of Deeds: Book # _____ Page # _____

Zoning District _____ Lot# _____ Tax Map# _____

<p>Parcel ID: Street _____ Map# _____ Lot # _____ <i>*This information is on your tax bill and is available from the tax assessor</i></p>
--

Location and description of property by reference to the Tax Map:

Board of Appeals/Planning Board decisions pertaining to land or buildings:

Reason(s) plan does not constitute a subdivision: _____

Signature of Owner: _____ Date: _____

FORM B



APPLICATION FOR APPROVAL OF A
PRELIMINARY SUBDIVISION PLAN

See Section 3200 of the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston. Two (2) copies of this form, completed and signed, must be submitted to the Planning Board along with seven (7) prints of the Preliminary Plan. The fees are \$100 plus \$50 for each lot. (These fees will be credited toward the fees required for submission of a Definitive plan.) Please make checks payable to *Town of Bernardston*.

Date of Submission: _____

To THE PLANNING BOARD and BOARD OF HEALTH:

The undersigned herewith submits the accompanying Preliminary Plan of a subdivision of property located in the Town of Bernardston, for review and approval under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston.

Name of Subdivider: _____

Address: _____

Phone #: _____ E-mail: _____

Name of Owner of Land: _____

Owner's Address: _____

Owner's Phone #: _____ E-mail: _____

Name of Registered Land Surveyor: _____

Surveyor's Address: _____

Surveyor's Phone #: _____ E-mail: _____

Parcel ID: Street _____ **Map#** _____ **Lot #** _____
**This information is on your tax bill and is available from the tax assessor*

Deed of Property Recorded in Franklin County Registry of Deeds: Book # _____ Page # _____

Zoning District _____ Map# _____ Parcel# _____

Signature of Owner: _____ Date: _____

FORM C

APPLICATION FOR APPROVAL OF A
DEFINITIVE SUBDIVISION PLAN



See Section 3300 of the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston.

See also Section 3313 for filing requirements with the Board of Health.

Two (2) copies of this form, completed and signed, together with eleven (11) prints of the Definitive Plan, and the original, should be submitted to the Planning Board.

Date of Submission: _____

To THE PLANNING BOARD:

There undersigned herewith submit the accompanying Definitive Plan of a subdivision of property located in the Town of Bernardston, for approval under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the Town of Bernardston.

Name of Subdivider: _____

Address: _____

Phone #: _____ E-mail: _____

Name of Owner of Land: _____

Owner's Address: _____

Owner's Phone #: _____ E-mail: _____

Name of Registered Land Surveyor: _____

Surveyor's Address: _____

Surveyor's Phone #: _____ E-mail: _____

Parcel ID: Street _____ **Map#** _____ **Lot #** _____
**This information is on your tax bill and is available from the tax assessor.*

Deed of Property Recorded in Franklin County Registry of Deeds: Book # _____ Page # _____

Location and description of property by reference to the Town Atlas/TaxMap: _____

Signature of Owner: _____ Date: _____



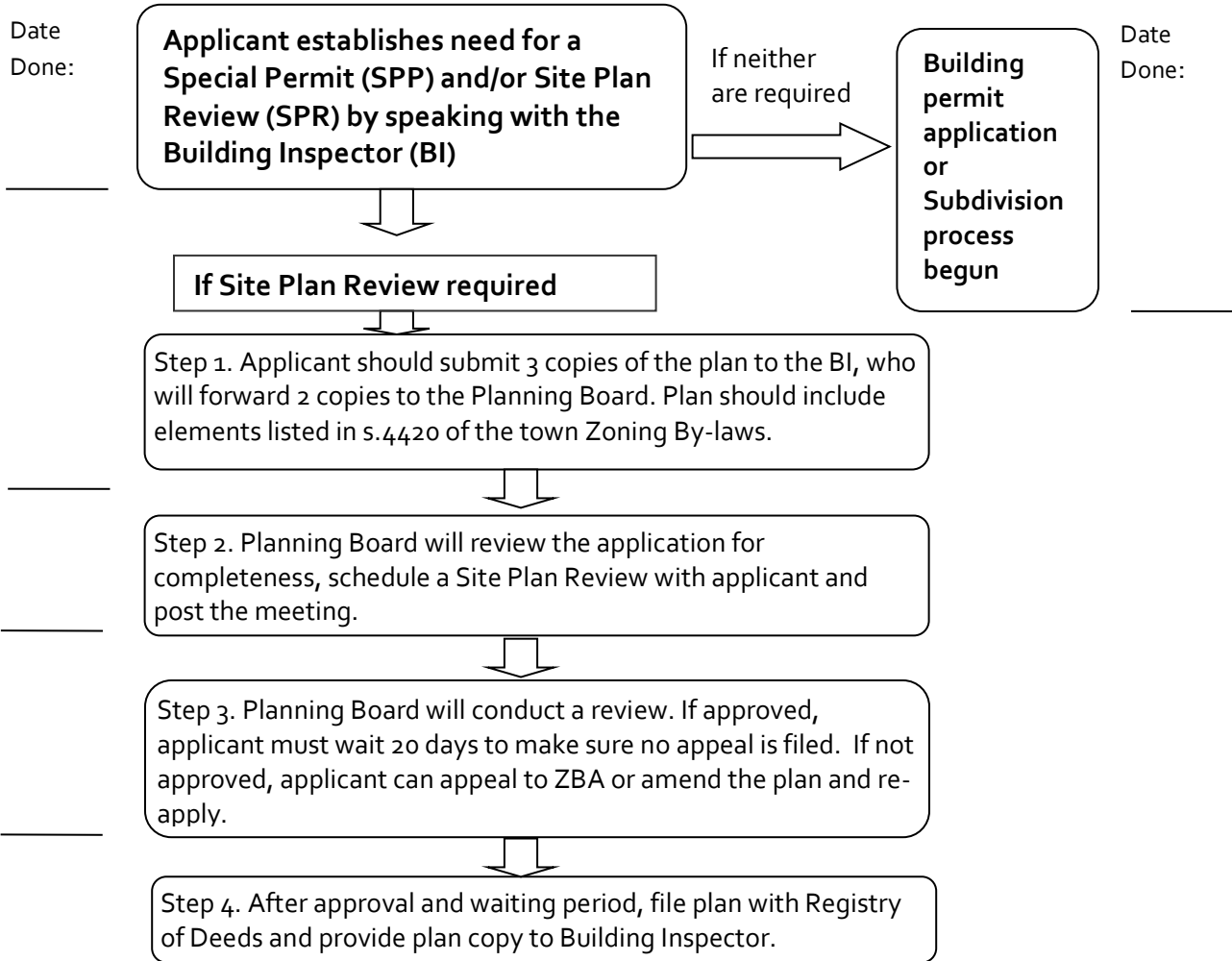
SITE PLAN REVIEW OVERVIEW

Site plan reviews are a non-statutory tool and are not required or regulated by Massachusetts General Laws (MGL). It is very common, however, for towns to adopt site plan review and approval procedures as part of the local zoning bylaws under MGL Section 40A, as Bernardston has done.

[In cases where a Special Permit and Site Plan Review are required, procedures are consolidated (i.e. one public hearing is held and one decision is written addressing both the use and conditions, if any). If a use is otherwise allowed by right (allowed in the Use Regulation Schedule, Zoning Bylaws of the Town of Bernardston Section 2230), but is subject to a site plan approval, the planning board has the opportunity to set conditions or not approve the site plan as presented, but not to deny the use.]

- | | |
|---------------------------------|---|
| Bernardston Zoning Section 4400 | Applications for permits shall be sent to the Building Inspector, who will forward the application to the Planning Board within 7 days. The Planning Board has 45 days from the date of application to review the plan and make comments. |
| Zoning Section 2230 | Site plan review is required for all nonresidential and nonagricultural projects. |
| Zoning Section 4400 | Three copies of the site plan documents should be submitted to the Building Inspector, who will forward two copies to the Planning Board. A copy of the site plan is also given by the applicant to the Town Clerk. |
| Zoning Section 4420 and 4430 | A complete application includes a site plan prepared by a registered professional engineer, landscape architect, or architect. Site plans should include all data, detail and supporting information outlined in Section 4420. Criteria listed in Section 4430 will be used to evaluate the plan. |

Expedited Permitting District
SITE PLAN REVIEW FLOW CHART



Site Plan Review Documents

Site Plan Review applicants should submit three (3) copies of the plans to the Building Inspector, who will then forward two (2) copies to the Planning Board.

These plans should contain the following information:

- Existing and Proposed topography
- Boundaries of the parcel
- Adjacent streets or ways
- Existing and proposed structures
- Water provision
- Sanitary sewerage
- Storm drainage
- Parking and egress
- Planting and screening
- Information pertaining to buildings as required in the State Building Code

The Planning Board considers the following criteria when reviewing site plans:

- Adequate access to each structure for fire and service equipment
- Adequate provision for utilities
- Adequate provisions for stormwater drainage
- Minimize the volume of cut and fill
- Minimize the number of removed trees $\geq 6''$ dbh
- Minimize the length of removed stone walls
- Minimize the area of wetland vegetation replaced
- Minimize the extent of stormwater flow increase
- Minimize soil erosion, air and water pollution
- Minimize noise originating from the site
- Maximize pedestrian and vehicular safety on the site and at the site egress
- Minimize obstruction of scenic views from publicly accessible locations
- Minimize visual intrusion by screening the parking, storage and other outdoor service areas
- Minimize glare from headlights
- Minimize lighting (pollution) by incorporating cut-off luminaires that direct light rays downward, limit fixture mounts to under 15' height
- Minimize unreasonable departure from the character and scale of buildings in the vicinity, as viewed from public ways

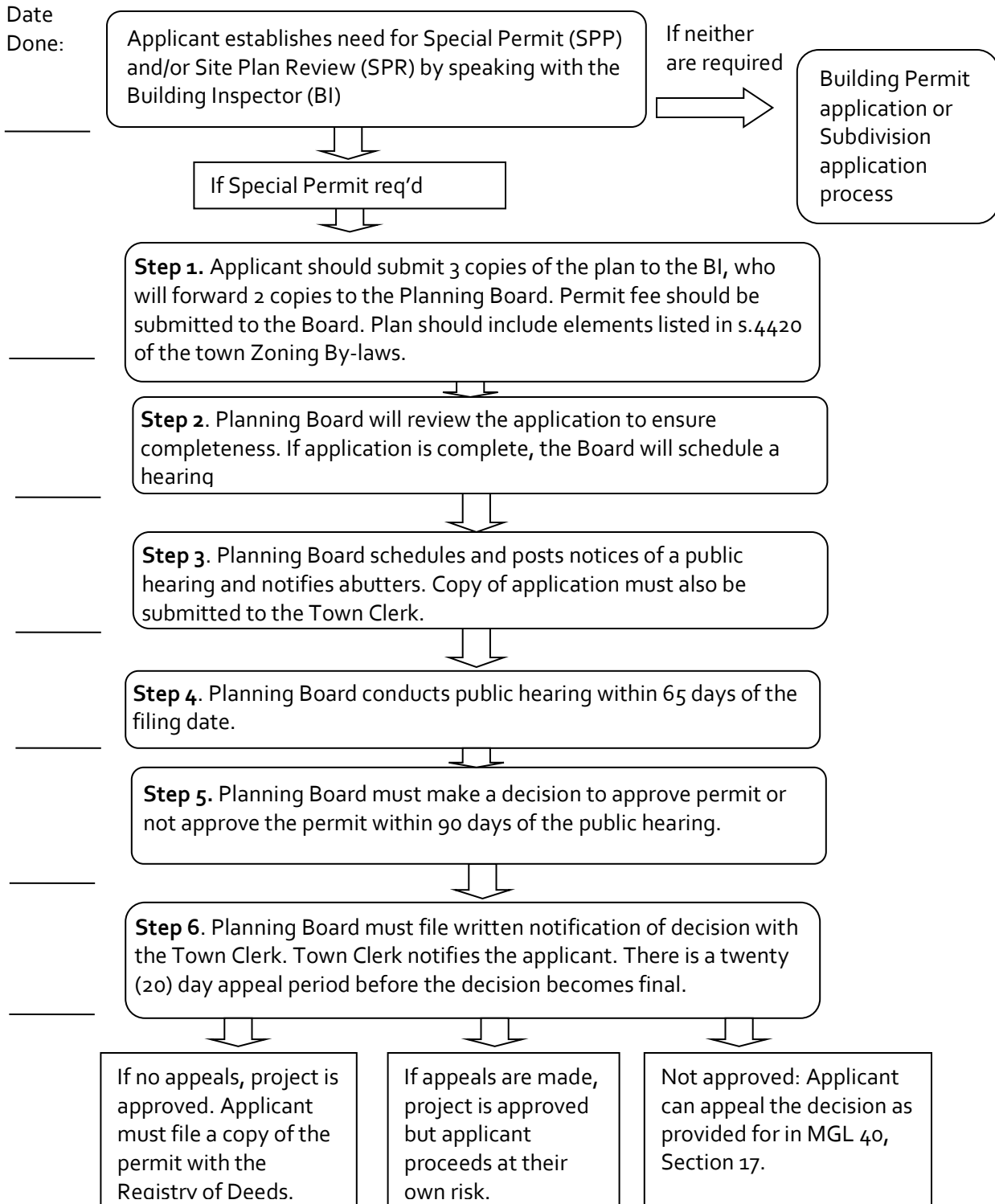


SPECIAL PERMIT OVERVIEW

<p>Bernardston Zoning Section 5360</p>	<p>A Special Permit application shall be made on the official Application for a Special Permit form for projects located in the EPD. The date of receipt by the Town Clerk shall be considered to be the date on which the application has been filled with the Planning Board.</p>
<p>MGL Chapter 40A Section 9</p>	<p>A public hearing must be held within 65 days after the effective date of filing of a special permit application, unless otherwise agreed upon by the applicant and the Board.</p>
<p>MGL Chapter 40A Section 11</p>	<p>Notice shall be given by publication in a newspaper of general circulation once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting such notice in a conspicuous place in the town hall for a period of not less than 14 days before the day of such hearing. <i>(Note: The Recorder must receive the notice 2-3 days prior to the publication date.)</i></p>
<p>MGL Chapter 40A Section 11</p>	<p>Notice of the public hearing shall be sent, postage prepaid, to abutters within 300 feet of the property line of the locus; to the petitioner; owner's of land across the street on any public or private way; Planning Board of the Town; and Planning Boards of every abutting town as they appear on the most recent applicable tax list. The assessors maintaining any applicable tax list shall verify to the Planning Board the names and addresses of parties in interest and such certification shall be conclusive for all purposes. <i>(Note: The Assessor needs 5-10 days to generate the list.)</i></p>
<p>MGL Chapter 40A Section 9 and Bernardston S.5360</p>	<p>The decision of the Planning Board shall be made within 90 days following the date of the public hearing, and within 180 days of notifying the Applicant that the application was complete, unless agreed upon in writing by the applicant and the Board.</p>
<p>MGL Chapter 40A Section 9</p>	<p>The Planning Board shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact (minutes), and setting forth clearly the reason for its decision and its official actions, copies of which</p>

	shall be filed within 14 days in the office of the Town Clerk and shall be deemed a public record. Upon a favorable vote of the Planning Board, the applicant may choose to proceed with the project with the understanding that the result of an appeal could require dismantling and removal.
MGL Chapter 40A Section 9	Appeals, if any, shall be filed within 20 days after the date of filing of the notice of the decision of the Planning Board in the office of the Town Clerk and in the appropriate court of law pursuant to MGL Ch40A, Section 17.
Bernardston Zoning Section 5350	If substantial use or construction has not commenced without good cause within a period of two years from the date of the granting of a special permit, the special permit shall lapse. The time limit does not include time required to pursue or await the determination of an appeal.

Expedited Permit District
SPECIAL PERMIT FLOW CHART



PLANNING BOARD

APPLICATION for a SPECIAL PERMIT



Date: _____

NOTE: This application must be filled out in ink or typewritten. Please submit three (3) copies of this application along with three (3) sets of plans and an advertising fee of \$250.00 (payable to the Town of Bernardston).

I HEREBY APPLY TO THE PLANNING BOARD FOR A SPECIAL PERMIT ACCORDING TO THE ZONING BY-LAWS OF THE TOWN OF BERNARDSTON, MASSACHUSETTS.

Applicant: _____
First name Last name Company

Address: _____
Number Street Town/City State Zip code

Address of affected property: _____, Bernardston, MA

I wish to acquire a Special Permit according to the Zoning By-Laws, Article __, Section ____.
Reason for Permit: Proposed Construction: _____
Proposed Use: _____

The premises affected are situated on the North / South / East / West (circle one) side of the street next to or across from _____ (identifying landmark).

The land affected is that recorded in a deed From _____ To _____, dated _____ and recorded in Book _____, page _____.

Parcel ID: Street _____ Map# _____ Lot # _____
**This information is on your tax bill and is available from the tax assessor.*

DESCRIPTION of PROPOSED USE of CONSTRUCTION

- If building, give size:
Front = _____ ft Depth = _____ ft
Height = _____ ft Height = _____ stories
- If building, indicate of construction: _____
- Occupancy number: _____ Type: _____
- Is the property subject to Chapter 61? Yes No (circle one)
- List current status for permits, variances, or grandfathered uses: _____

- Brief description of proposed establishment or use:

Signature of Applicant (or owner representative): _____

Signature of Owner (required): _____

List of Contacts

DEPARTMENT	PHONE	E-MAIL
Administrative Assistant	413-648-5401	bos@townofbernardston.org
Town Clerk	413-648-5408	townclerk@townofbernardston.org
Board of Health	413-648-5237	boh@townofbernardston.org
Assessors Assistant	413-648-5407	assessor@townofbernardston.org
Fire Chief	413-648-9757	N/A
Planning Board	N/A	planningboard@townofbernardston.org
Franklin County Building Inspector	774-3167 772-2026 x124	
Franklin County Registry of Deeds Franklin County Courthouse 425 Main St, Greenfield, MA	772-0239	
MASS DOT	877-623-6846	
MA DEP – Regional Office (Permits)	413-755-2119	