

PLANNING BOARD RULES & REGULATIONS GOVERNING THE ISSUANCE OF SPECIAL PERMITS IN THE GENERAL BUSINESS AND SPECIAL BUSINESS OVERLAY

Section I - Purpose & Authority

- 1.0 These rules and regulations are adopted by the Planning Board, hereinafter called the Board, as the Special Permit Granting Approval Authority provided in Article 21 of the Berkley Zoning Bylaws for the purpose of granting Special Permit Approval.
- 1.1 These rules and regulations may be adopted and from time to time amended after notice and a public hearing. A concurring vote of a majority of the Board is required for favorable action. These rules and regulations and any amendments thereto must be filed with the Registry of Deeds and the Land Court in order for them to be enforceable.
- 1.2 These rules and regulations are effective when voted. A copy shall be filed with the office of the Town Clerk, with appropriate endorsements such as:

Date of Adoption by Planning Board: _____;
Date filed with Town Clerk: _____;

Section II - Application

- 2.0 An application for Special Permits shall also be accompanied by the following:
- 2.1 Abutters List. A list of the names and addresses which shall include the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to abutters within three hundred feet (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list;
- 2.2 Said list shall be presented on a properly executed list of abutters certified by the Board of Assessors. Applicant(s) shall submit envelopes addressed to each abutter along with Certified Mail cards, and return receipt requested slips, filled out for each abutter and any “parties of interest” as defined in M.G.L. Ch. 40A-Sec. 11.
The return address on all mailing pieces shall be:

Berkley Planning Board
Berkley Town Hall
1 North Main Street
Berkley, MA 02779

- 2.3 All applications shall include two certified checks made payable to the order of the Town of Berkley. One check shall be for Administrative fees and the second check shall establish an

individual consultant account. Any additional payments required shall be made within 10 days of receipt of the request.

In addition, the Applicant is responsible for all costs associated with the required mailing and advertising. Within 5 days of submission, the Applicant must supply the Board with:

A check made payable to the order of 'Postmaster' in an amount equal to the cost of the certified mailing.

A check in an amount equal to the cost of legal advertisement.

The Planning Board or its agent will provide the payee and amount to the Applicant.

2.3.1 Administrative Fee - The filing fee for a Special Permit application shall be determined by Gross Floor Area (GFA):

< 5,000 sq. ft GFA	\$750
> 5,000 – 19, 999 sq. ft. GFA	\$1500
> 20,000 sq. ft GFA	\$3000
Modification or Expansion	\$500
No Structure:	
under 2 acres	\$150
2 – 5 acres	\$350
5 – 20 acres	\$750
Over 20 acres	\$1,000 plus \$100 /acre over 20

2.3.2 Consultant Review Fee/Special Account

2.3.2.1 Every Special Permit application shall be required to file the following minimum review fee to establish an individual special account. If, in addition, this minimum amount is not sufficient to cover the entire cost of the review, the Board shall adjust said special account. The minimum fee and the adjustment schedule are as follows:

Up to 5,000 sq. ft.	\$5,000
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Greater than 5,000 sq. ft.	\$5,000 - plus \$1,000 for each 10,000 sq. ft of building area or portion thereof
Modification	\$5,000 - plus \$1,000 for each 10,000 sq. ft of building area or portion thereof

No Structure:

under 5 acres	\$5,000
5 – 20 acres	\$7,500
Over 20 acres	\$10,000 plus \$500 /acre over 20

2.3.2.2 Where specific conditions arising from the land or the nature of the proposal necessitate the assistance of a planning, engineering, traffic, soils, hydrologic or other consultant(s), the Planning Board may engage such consultant services to assist the Board in analyzing the project to ensure compliance with all relevant laws, ordinances, bylaws, regulations, good design principals, and state-of-the-art technology. The Board may require that applicants pay a "review fee" consisting of the reasonable costs to be projected to be incurred by the Board, for the employment of consultants engaged by the Board to assist in the review of the application.

2.3.2.3 Funds received by the Board pursuant to this section shall be deposited with the Town Treasurer who shall establish a special individual account for this purpose. Expenditures from this special account may be made at the direction of the Board, without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant.

The balance of the applicant's deposit minus consultant charges shall at no time be less than one half (1/2) the initial deposit, and the applicant shall deposit such additional funds as are required to restore the Special Account

to the amount of the initial deposit upon notice from the Planning Board, by certified mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below one half (1/2) the initial deposit.

The failure of the applicant to make the initial deposit, and/or to maintain the Special Account in accordance with this section, shall be grounds for denial of the application or permit.

2.3.2.4 Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the Board's review of a project, any excess amount in the account, including any interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest. The applicant must submit a written request for these funds. For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with the documentation establishing such succession in interest.

2.3.2.5 Any applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen, providing that such appeal is taken within 14 days of notification of the Board's appointment of the consultant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications as may be set by the Board. The minimum qualifications shall consist either of a four-year college level educational degree in, or one related to, the field of knowledge at issue or three or more years of practice in the field at issue or a closely related field. Minimum qualifications may be changed at the Board's discretion depending upon the complexity and/or importance of the proposed project. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

2.3.2.6 Other Costs and Expenses - The applicant is responsible for preparing notices and associated costs of mailing to abutters and any parties in interest by certified mail, return receipt requested. The prepared notice shall be reviewed and mailed by the Planning Board or its agent. Return receipts are to be addressed to the Planning Board for further verification. The prepared notices/certified mailing shall be delivered to the Planning Board agent not less than ten (10) business days before the date of the public hearing.

2.4 One (1) copy of all local, state, and federal approvals, if obtained, prior to the granting of the Special Permit and any variances obtained prior to the granting of the Special Permit.

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- 2.5 Written permission from the owner of the property to apply for Special Permit if the applicant is not the owner.
- 2.6 An original plan, and three (3) copies shall be submitted to the Planning Board. Additional copies of the application and plan shall be filed simultaneously by the applicant with the **Town Clerk, Board of Selectmen, Zoning Board of Appeals, Conservation Commission, Board of Health, Building Inspector, Historical Commission, Fire Dept., Police Dept., and Highway Dept.** and the standard form signed by each department shall be returned to the Planning Board within 5 days.

A complete application packet shall be sent directly to the Planning Board's consultant(s) upon filing a Special Permit application.
- 2.7 A completed, current Tax Form (Form T) having required signatures.
- 2.8 2 copies of the final approved plan shall be submitted to the Planning Board on disk, or in .pdf format.

Section III - Procedures

- 3.0 **Public Hearing:** A public hearing 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 fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in town hall for a period of not less than fourteen (14) days before the day of such hearing and shall send written notice by certified mail, return receipt requested to all direct abutters. The legal ad and abutter notification shall include, at a minimum, the following information and shall be at the expense of the applicant:
 - 3.0.1 The name, and if applicable, the business name and address of the applicant;
 - 3.0.2 The street address and the assessor's map and lot number of the property as specified on the Special Permit Application on which construction, expansion or modification is planned;
 - 3.0.3 A brief description of the type of construction, expansion or modification planned;
 - 3.0.4 The designated Town office where the Special Permit Application and plans can be reviewed;
 - 3.0.5 The date, time and place of the public hearing.
- 3.1 **Approval:** The Planning Board's approval may consider comments received from various municipal reviewers. Additionally, proposed methods of mitigating impacts associated with each project will be incorporated into the Board's approval. In addition, the following criteria must be addressed to the Planning Board's satisfaction. Such findings shall pertain to the entire proposed development, including any Special Permit or design modifications

imposed by the Planning Board as a condition of its approval, and off-site improvements proposed by the applicant or required by the Planning Board as a condition of its approval.

- 3.1.1 The traffic carrying capacity of the intersections and streets likely to be affected by the proposed development will meet the standards set forth in Section 6.
- 3.1.2 The planned capacities of public and/or private facilities such as water supply, sewage and drainage systems are adequate in the vicinity of the site to serve the proposed development.
- 3.1.3 The proposed development will comply with the community impact standards set forth in Section 6.
- 3.1.4 In granting approval of an application, the Planning Board may impose conditions, limitations and safeguards which shall be in writing and shall be a part of such approval. Such conditions may include, among other matters and subjects:
 - 3.1.4.1 Controls on the location and type of access to the site;
 - 3.1.4.2 Requirements for off-site improvements to improve the capacity and safety of roads, intersections, pedestrian ways, water, sewer, drainage, and other public facilities which are likely to be affected by the proposed development;
 - 3.1.4.3 Requirements for donation and/or dedication of land for right-of-way to provide for future roadway and/or intersection widening or improvements;
 - 3.1.4.4 Requirements for securing the performance of all proposed work, including proposed off-street improvements;
 - 3.1.4.5 A passbook account, meeting the requirements of the Town Treasurer, shall be established in an amount determined by the Planning Board or Planning Board's designated agent sufficient to cover the cost of all or any part of the improvements required as conditions of approval;
 - 3.1.4.6 Conditions to minimize off-site impacts on traffic and environmental quality during construction. (i.e. screening, stormwater runoff, construction dewatering, dust)
- 3.2 **Minor Modification:** A minor modification may be approved in accordance with the Special Permit Approval Zoning Bylaw. An additional project review fee may be assessed by the Planning Board.
- 3.3 **Pre-construction Meeting:** There shall be a pre-construction meeting with the Planning Board or its designated agent prior to commencement of any work on the development site. NOTE: Any changes to the approved Special Permit must be made in writing to the Board and approved prior to commencement of work.

- 3.4 **Pre-construction Schedule:** There shall be a site visit/inspection schedule set up by the Planning Board or its designated agent prior to commencement of any construction on the development site.
- 3.5 **Occupancy Permits:** The Planning Board or its designated agent shall conduct an on-site inspection of the development, hold a Special Permit compliance meeting with the Board and the applicant and issue a Special Permit compliance report notifying the Building Inspector prior to issuance of an occupancy permit by the building department.
- 3.6 **Performance Guarantee:** A separate passbook shall be established which meets the requirements of the Town Treasurer, with the applicant/controller of the land and/or project, in an amount acceptable to the Board, as a guarantee for performance of unfinished work to the development. In addition, the Board shall require a landscape performance guarantee for five (5) growing seasons from the time of planting.

Section IV – Special Permit Content

The Special Permit plan shall contain the following:

- 4.1 A Locus map at a scale of 1" = 200' which shall show all streets, bodies of water, public or private drinking supplies, public or private waste water disposal systems, landscape features, historic sites, habitats for endangered species within the parcel and within three hundred (300) feet of the parcel and all buildings within the parcel and within three hundred (300) feet of the parcel;
- 4.2 The location and name of all streets, any and all driveways, and curb-cuts within three-hundred (300) feet of the site. Street shall include layout, designated as public or private, and pavement width;
- 4.3 On-site and abutting lot lines; names of all abutters as they appear in the most recent tax list. All contiguous property owned by the applicant shall be included;
- 4.4 Zoning District(s) boundary lines of the locus and all land within three hundred (300) feet of the parcel, including overlay districts and other districts not specifically mentioned; other information such as: floodplain, wetland and water resource protection, shall also be displayed. Other features including; slope, geological features, unique vegetation, existing; (six (6)" trunk diameter or greater measured four (4) feet above grade) trees, stone walls, easements, fencing, cemeteries, buildings (including historic background if any), prior landfills, septic systems, private or public water supplies, rock outcroppings, vistas and other natural features;
- 4.5 Five (5) **signature lines** for Planning Board approval, **located in the lower right corner**, along with a statement that "This Special Permit Approval does not necessarily indicate compliance with the Berkley Zoning By-law". **One (1) signature line for Town Clerk**

approval along with the statement “I, Town Clerk of the town of Berkley, MA hereby certify that the notice of approval of this plan by the Planning Board has been received and recorded at this office and no appeal was received during the next twenty days after receipt and recording of said notice”;

- 4.6 Existing and proposed topography contour lines at two (2) foot intervals on the parcel to be developed and within one hundred (100)' thereof. Information and location of benchmark(s) used shall also be provided;
- 4.7 Information on the location, size, type and number of existing and proposed landscape features. A Landscaping Plan shall be provided showing species selected for approval by the Planning Board or its agent. The use of drought resistant varieties is encouraged. Said plan may be required to be prepared, stamped and signed by a Landscape Architect registered in the Commonwealth of Massachusetts;
- 4.8 Information on location, size and capacity of existing and proposed on-site and abutting utilities (water, sewer, drainage, electrical, cable, etc.);
- 4.9 A Zoning Chart with the minimum area requirements per the Berkley Zoning Bylaws;
- 4.10 Elevation and façade treatment plans of all proposed buildings. A listing of materials to be used;
- 4.11 Information on the location, size and type of parking, loading, storage, drive-thru and service areas;
- 4.12 Percent of building lot coverage and percentage of paved (impervious) area used for parking, loading, access within the property and percent open space of the site;
- 4.13 Existing and proposed location(s) of loading areas, driveways, access and egress points, and the location and number of parking spaces required per Berkley Zoning Bylaws;
- 4.14 The Special Permit plan(s) shall be at a scale of 1"=40', except for building elevation plans, which shall be at a scale of 1/4"=1' drawn on a standard 24"x36" sheet(s);
- 4.15 A Development Impact Statement will be required in accordance with Section 6;
- 4.16 Special Permit plan(s) must be prepared, signed and stamped by a professional civil engineer and a Professional Land Surveyor both who must be registered in the Commonwealth of Massachusetts. The land surveyor shall perform an instrument boundary survey and shall certify the accuracy of the locations of the building, setbacks and all other required dimensions, elevations and measurements and shall be signed under the penalties of perjury;
- 4.17 The date and north arrow shall be shown;
- 4.18 The location of existing or proposed building(s) on the lot(s) shall be shown with the total square footage and dimensions of all buildings, all building elevations and floor plans, and perspective renderings;

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- 4.19 The applicant shall submit information on existing and proposed on-site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse and recycling containers and location and capacity of septic systems and estimated amounts of water consumption and sewer discharge, including: all measures proposed to prevent pollution of surface water or groundwater, soil erosion, increased runoff, and flooding. An erosion control plan showing method(s) and location(s) to be used shall also be submitted;
- 4.20 Existing and proposed signs; noting height, size, location and manner of lighting (applicant is encouraged to include photograph(s) and /or sketch(s));
- 4.21 A photometric plan showing the parcel to be developed and within fifty (50) feet thereof. The plan shall include the following: location of all existing and proposed exterior light(s), including building ground and parking lot light(s); noting height, initial foot-candle readings on the ground and data on the types of fixtures to be used. Lighting shall not intrude onto abutting properties or interfere with vehicular traffic on public ways;
- 4.22 A traffic impact study prepared by a registered professional engineer experienced and qualified in traffic engineering;
- 4.23 The application shall also furnish a narrative summary of the vital statistics of the project;
- 4.24 Any additional information, which the Board reasonably requires. The Board may engage appropriate consultants to review the Special Permit plan for completeness and correctness and shall require the applicant to pay for the cost of the review.

Section V – Requirements

All Special Permit applications and plans shall be prepared in compliance with the Berkley Zoning Bylaws and the Berkley Planning Board Rules and Regulations governing Special Permit Approval. The Special Permit standards not specifically enumerated herein shall be found in Time-Saver Standards for Special Permitting written by Joseph De Chiara & Lee E. Koppelman, as most recently revised. Along with all applicable Special Permit standards of the Architectural Access Board, American Disabilities Act, AASHTO and any other local, state, and federal standards not specifically enumerated herein. In the event there is a conflict in standards, the jurisdictional standard shall apply, unless otherwise waived by the Planning Board.

5.1 Site Landscaping

- 5.1.1 Every effort shall be made to retain and protect existing (6” trunk diameter or greater measured 4 feet above grade) trees, shrubs and other landscape features on a site.
- 5.1.2 A three (3) foot wide landscaping strip shall be provided along the foundation walls to soften their appearance for all non-residential building(s). The landscape strip may be staggered to a maximum of 5 feet, in order to vary the landscape design for a site. The landscape strip shall provide screening to the portion of the foundation above grade.

- 5.1.3 A twenty-five (25) foot undisturbed natural buffer area shall be maintained from any wetland resource area defined under the Massachusetts Wetland Protection Act and recognized by the Berkley Conservation Commission. Stairways, decks, fences and water dependent structures (and the grading for such) internal to parking lots and around buildings are not exempted from the twenty-five (25) foot setback requirements.
- 5.1.4 It is the purpose of these Rules and Regulations to preserve and/or maintain open space for new sites. Therefore any lot or group of contiguous lots totaling less than three (3) acres shall provide twenty five (25) percent open space. Any lot or group of contiguous lots totaling more than three (3) acres shall provide thirty-five (35) percent open space. Open space shall be considered any area not occupied by buildings, paving, drives, roadways, sidewalks etc. Wetland resources areas defined by the Massachusetts Wetland Protection Act can be used to meet the open space requirement described above. Whenever possible, open space should be maintained in its natural state. All open space areas on a site shall be adequately landscaped with trees, shrubs, flowers, grass, and/or mulch. Wherever feasible, open space shall be contiguous with other open space of abutting land.
- 5.1.5 Parking lots containing ten (10) or more parking spaces shall have at least one tree per eight (or fractions of eight) parking spaces. Such trees to be located within the paved parking area. Such trees shall be at least four (4)" trunk diameter measured twelve (12)" to eighteen (18)" above the ground with a minimum of sixty (60) square feet of seeded or landscaped permeable surface area per tree. When parking areas contain twenty-five (25) or more spaces, at least five (5) percent of the parking area shall be maintained with landscaping (within the interior of the parking area), including trees as above, in plots of at least ten (10) feet in width. Trees and landscaped plots shall be so designed and located as to provide visual relief and sun and wind screening within the parking area, and to assure safe patterns of internal circulation. Planting areas are required along parking area perimeters to prevent off-site glare onto the public or private way(s). Parking lot plantings shall not block motorists line of sight upon entering and exiting a site. Any landscaped area described above can be used to meet the open space requirement of this section for new sites.

5.2 Site Lighting

Access ways, parking areas, and pedestrian walkways shall have adequate lighting for security and safety reasons. Lighting shall meet the following standards:

- 5.2.1 The luminaries/lighting fixtures shall be the shoe box type or decorative in nature (with interior directional shields), consistent with the architectural theme of the development. Flood and area lighting is unacceptable. All luminaries/lighting fixtures shall have a total cutoff of all light at less than ninety (90) degrees from vertical. The lighting fixture shall only be visible from below.



[Appropriate Lighting Fixtures]



[Inappropriate Lighting Fixtures]

- 5.2.2 Reflectors of proper distribution shall be selected for maximum efficiency. Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.
- 5.2.3 The luminaries/lighting fixtures shall not exceed twenty (20) feet in height or the height of the building's roofline whichever is lower. The luminaries/lighting fixtures for sidewalks/paths shall not exceed 12 feet in height.
- 5.2.4 Where wall-pack type luminaries/lighting fixtures are utilized for outdoor lighting fixtures, the fixture shall be equipped with a prismatic lens to reduce glare. Wall-pack lighting shall be designed to a maximum cutoff of seventy (70) degrees from vertical. The location of the wall-pack on the structure shall not exceed 20 feet in height.

5.2.5 All luminaries/lighting fixtures shall be restricted to a maximum foot-candle level of 8.0 (initial), as measured directly below the fixture at grade.

5.3 Drainage

The drainage system shall be designed so that there is no net increase in the pre vs. post peak rates of storm water discharge for the 2, 10 and 100-year storm events and rates. The applicant shall demonstrate to the satisfaction of the Planning Board that the project is designed to have no measurable or significant impact as to existing vegetation, topography, wetlands, and other natural or man-made features.

The system shall be designed to treat storm water to all applicable standards of town, state and federal agencies. The system design shall promote on-site infiltration and minimize the discharge of pollutants to the ground and surface water. Drainage systems shall have an emergency overflow for the one-hundred (100) year storm event. Additionally, the drainage system will be designed in accordance with Stormwater Management Volume I and II prepared by: MA Department of Environmental Protection and MA Office of Coastal Zone Management as most recently revised. In special cases, the site drainage may utilize the Town's drainage system with the approval of the Planning Board, or its agent & the Highway Department. The Planning Board requires that proper calculations be submitted. A minimum of one foot of freeboard shall be provided for all detention/retention structures.

5.3.1 Design Criteria: The applicant shall use the best available drainage systems. The suitability of the drainage design shall be based on the natural features, such as soil types, slope, vegetative cover, water table etc., of the site. Drainage plans shall be developed in consultation with the Planning Board office and the Board's consultants with the following objectives in mind:

5.3.1.1 Protection of surface and groundwater quality;

5.3.1.2 Public safety;

5.3.1.3 Protection of existing abutting properties, septic systems and public or private water systems;

5.3.1.4 Enhancement of and connection to natural drainage systems, including streams, floodplains, and associated wetlands;

5.3.1.5 Attractiveness of the plan, minimizing disruption to existing features, and successful imitation of natural systems;

5.3.1.6 Minimizing of long term maintenance and/or reconstruction obligations.



Unsuccessful imitation of a natural system



Successful imitation of a natural system

- 5.3.2 **Performance Standards:** On site drainage systems, including detention/retention areas, shall meet the following:
- 5.3.2.1 A thirty-five (35) foot buffer screen that is aesthetically pleasing of existing vegetation shall be retained between all detention or siltation structures and adjacent off-site uses (roadways and/or structures).
 - 5.3.2.2 A thirty-five (35) foot buffer zone of existing vegetation shall be retained between all point source discharges of stormwater and surface waters and wetlands;
 - 5.3.2.3 All piping within the drainage system shall be sized for the twenty five (25) year storm event.
 - 5.3.2.4 Detention facilities shall be designed to function as natural wetlands, having characteristics of side slopes, gradients, vegetation and topographic location which follow naturally occurring wetland.
 - 5.3.2.5 Side slopes of detention facilities should be no steeper than 3:1 horizontal to vertical relationship;
 - 5.3.2.6 A maximum of 2% slope shall be permitted for the bottom of the basin;
 - 5.3.2.7 Where clearing and/or regrading is unavoidable, vegetation shall be re-established in conformance with the landscaping plan.
 - 5.3.2.8 Detention basins shall provide one-hundred and fifty (150%) of the required storage volume for the one-hundred (100)-year storm event. At least one permeability test shall be conducted within each detention basin to estimate the infiltration rate. (one test per 10,000 square feet of overall detention basin area is required).
 - 5.3.2.9 Ground infiltration by means of leaching pits, leaching catch basins or similar facilities are not allowed as a means to calculate or mitigate storm water disposal;
 - 5.3.2.10 No drainage outfall shall be discharged at an elevation below the high water line of a wetland, stream or water body or abutting property;
 - 5.3.2.11 A headwall with wing walls protected by rip-rapped aprons shall be provided at the outfall of all drainage pipes.

- 5.3.2.12 Test holes shall be conducted by a licensed soil evaluator in each detention basin in accordance with the 310CMR: Department of Environmental Protection (Title V) methods. A minimum of one test per 10,000 square feet of overall detention basin area is required. Monitoring wells may be required by the Planning Board.
- 5.3.2.13 All detention basins within ten (10) feet of parking lots, driveways, or areas of public access shall be protected by a guardrail. All detention basins within forty (40) feet of public ways shall be protected by a guardrail. The Planning Board may require additional guardrails.

5.4 Parking and Loading

Parking lots shall be designed to include median strips and landscape islands to improve internal circulation. Additionally, rows of parking should be interrupted by landscaped or naturally vegetated islands. Parking lots and access drives shall be designed to prevent motorists from stacking onto the public way. Parking areas shall be interconnected wherever feasible. Any entrance or exit driveway shall be a minimum of twenty five (25) feet in width. Parking lanes shall be sized according to the internal circulation pattern. Parking shall be prohibited between buildings and street layout, except for handicap access. Parking for large trucks shall be provided as determined by the Planning Board. Loading shall be designed to be convenient to the loading and unloading of vehicles and to avoid conflicts with the internal circulation pattern. Curbing shall be vertical granite at the access drive radii. Each site shall have only one curb cut per street frontage, except where it is deemed that more than one curb cut is necessary for emergency access purposes or to enhance the site.

5.5 Service Facilities

Service facilities such as: garbage collection, recycling containers, refrigeration units, utility areas and other facilities not specifically identified shall be screened in a manner consistent with the design of the building around their perimeters. Screening may consist of fencing and/or natural vegetation. Screening shall have an effective height and width to screen from public view said service facility.

5.6 Construction

- 5.6.1 All access drives and parking areas shall be graded, paved, and drained in accordance with standards enumerated above.
- 5.6.2 Curbing shall be placed at the edges of all paved surfaces. Wheelstops shall be placed where parking spaces abut sidewalks and/or walkways for pedestrians. Guardrails shall be placed along parking spaces and drive aisles where slopes exceed 3:1. Curbing shall not be bituminous concrete.
- 5.6.3 All utility connections shall be underground and constructed in accordance with the requirements of the town and other utility companies.

5.6.4 Bollards may be placed along the sides of the building exposed to vehicle traffic.



5.7 Access Connections

5.7.1 Separation between access connections on all collector and arterials shall be based on the posted speed limit in accordance with the following table:

<i>Posted Speed Limit (MPH)</i>	<i>Access Connection Spacing (Feet)</i>
20	140
30	210
40	280
50	350

5.7.2 The width of the access connections at the property line of the development shall not exceed 25 feet, unless the traffic impact study identifies and the Planning Board agrees to the need for turning lanes from the development onto the adjacent public road.

5.7.3 The access connection shall provide a minimum distance of 40 feet in depth between the property line and the beginning of any parking areas, turning areas and/or stacking lanes within the development.



Appropriate separation from road



Inappropriate separation from road

- 5.7.4 For a site at an intersection where no alternatives exist, such as joint or cross access, the Board may allow construction of an access connection at a location suitably removed from the intersection. In such cases, the applicant shall provide directional restrictions (i.e. right in/ right out only and/or a restrictive median) as required by the Board.
- 5.7.5 A system of joint use driveways and cross access easements shall be established wherever feasible along (name road or overlay corridor) and the proposed development shall incorporate the following:
- A service drive or cross access corridor extending the width of the parcel.
 - A design speed of 10 mph and sufficient width to accommodate two-way travel aisles.
 - Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive.
- 5.7.6 A leveling area shall be provided having a minus one percent (-1%) grade for a distance of thirty (30) feet measured from the nearest exterior line of the intersecting street, to the point of vertical curvature.



Appropriate leveling area



Inappropriate leveling area

5.8 Drive Through Facilities

- 5.8.1 Drive-through facilities shall provide a minimum of (8) eight stacking spaces (within the site) before the order board. The facility shall provide another (4) four stacking spaces between the order board and the transaction window. If the facility has two transaction windows the (4) four stacking spaces may be split between each of the windows. An additional stacking space shall be provided after the last transaction window(s).
- 5.8.2 Each stacking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width along straight portions. Stacking spaces and stacking lanes shall be a minimum of twelve (12) feet in width along curved segments.

5.8.3 Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping and the use of alternative paving materials or raised medians.

5.8.4 Entrances to stacking lane(s) shall be clearly marked and a minimum of sixty (60) feet from the intersection with the public street. The distance shall be measured from the property line along the street to the beginning of the entrance.



Clearly delineated stacking lanes

5.8.5 Stacking lanes shall be designed to prevent circulation congestion, both on site and on adjacent public streets. The circulation shall: (a) separate drive-through traffic from site circulation, (b) not impede or impair access into or out of parking spaces, (c) not impede or impair vehicle or pedestrian traffic movement, and (d) minimize conflicts between pedestrian and vehicular traffic with physical and visual separation between the two. Stacking lanes shall not interfere with required loading and trash storage areas and loading or trash operations shall not impede or impair vehicle movement. If said separate stacking lane is curbed, an emergency by-pass or exit shall be provided.

5.8.6 Stacking lanes shall not enter or exit directly into a public right-of-way. Stacking lanes shall be integrated with the on-site circulation pattern.

5.8.7 The intersection of stacking lanes and walk-in customer access shall be a minimum of fifty (50) feet from any access connections and/or transaction windows. Said intersections shall be provided with a crosswalk. These crosswalks shall use enriched paving and striping and include warning signage aimed at both the pedestrian and vehicle.



5.8.8 Any outdoor service facilities (including menu boards, speakers, etc.) shall be a minimum of one hundred (100) feet from the property line of residential uses. Sound from such facilities may require a barrier to redirect sound away from abutters.

5.8.9 Menu boards shall be a maximum of thirty square (30) feet, with a maximum height of six (6) feet in height and shall be shielded from any public street and residential properties.

5.9 Architectural/Building Design

- 5.9.1 Architectural details of new buildings and additions, textures of wall and roof materials, should be harmonious with the building's overall architectural style and should preserve and enhance the character of the surrounding area.
- 5.9.2 The mass, proportion and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows should be harmonious among themselves and with those of the surrounding area.
- 5.9.3 The building's location shall be oriented parallel or perpendicular to the street. Where the minimum setback cannot be maintained by the building, the applicant shall provide adequate spatial definitions through the use of walls, fences and or other elements, which will maintain the street line.
- 5.9.4 The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roof line, roof pitch, arrangement of openings, color, exterior materials, proportion and scale of existing buildings in the vicinity.



Appropriate exterior materials, proportion and scale



Appropriate Building Colors



Inappropriate Building Colors

- 5.9.5 When a drive-through is proposed on a property with an historic building, the architectural character defining the exterior elements of the historic building shall be preserved. Signage should be compatible with the historic character of the building.



- 5.9.6 Buildings: buildings should be placed close to the road where appropriate; parking areas should be placed to the side or rear of buildings where appropriate; long horizontal facades should be avoided by incorporating recesses and projections, of a minimum of two feet in depth; entrance ways should be emphasized by use of rooflines, changes in materials, landscape treatments or other architectural elements; franchise architecture with highly contrasting color scheme, non-traditional forms, reflective siding and roof materials should be avoided; drive-through elements should be architecturally incorporated into the building; drive-through elements generally should not face the street; the material used for additions should complement the materials of the original structure.

- 5.9.7 Rooflines: the use of flat roofs and A-frame roofs should be avoided; roof colors should be earth tones or a color that is darker than the facade and garish roof colors should not be used; visible roofing materials should complement the color and texture of the building's facade; roof mounted mechanical equipment should be screened from public view or grouped at the rear of the structure where visibility is limited.



Appropriate roof pitch

Inappropriate roof

5.9.8 Building Signs: simple geometric shapes should be used for signs; signs should be limited to two or three contrasting colors that complement the colors on the building; garish colors should be avoided; carved wooded signs are encouraged; lighting fixtures illuminating signs should be located so light is directed only onto the sign facade.

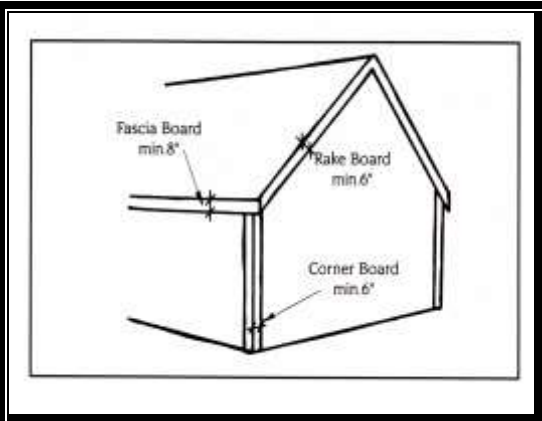
5.9.9 Windows: A minimum of 60% of the building's street side facade shall contain windows. The windows should be divided by muntins and framed with a casing trim; awnings should be designed as an integral part of the building facade; metal awnings are discouraged.



Inappropriate Architecture



Appropriate Architecture details



Appropriate Architectural Details, Muntins and Awnings

Section VI – Community and Traffic Impact Assessment

6.1 Community Impact Assessment

6.2 Purpose: To evaluate the impact of the proposed project on Town services and surrounding neighborhood.

Scope:

- 6.1.1 **Site design and neighborhood impact:** Evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character and intensity of use (e.g., scale, mass, materials, color, location and size of doors and windows, setbacks, roof and cornice lines, and other major design elements); and of the location or configuration of proposed structures, parking areas, and open space with respect to neighboring properties.
- 6.1.2 **Historic impact:** identification of impacts on significant historic properties, or archeological resources (if any) in the vicinity of the proposed development.
- 6.1.3 Evaluation of impacts on the public and private water system, wastewater disposal and sewage system, the school system, fire protection, police protection, libraries, open space, wetlands, waterways and parks and recreation facilities, and proposed methods of mitigation for any adverse impacts.

6.2 Community Impact Standards

Required:

- 6.2.1 Design elements shall be compatible with the character and scale of neighboring properties and structures.
- 6.2.2 The design of the development shall minimize the visibility of visually degrading elements such as trash collectors, loading docks, mechanical equipment, etc.
- 6.2.3 The design of the development shall be consistent or compatible with existing local plans (if any), including plan elements adopted by the Planning Board, Conservation Commission, Open Space Plan, and other Town bodies having such jurisdiction.
- 6.2.4 The location and configuration of proposed structures, parking areas and open space shall be designed so as to minimize any adverse impact on temperature and noise levels or wind velocities on the site and adjoining properties.

- 6.2.5 Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties.

6.3 Traffic Impact Assessment

Purpose: To document existing traffic conditions in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures proposed to mitigate any adverse impacts on traffic. A registered professional engineer experienced and qualified in traffic engineering shall prepare the traffic impact assessment.

Scope:

- 6.3.1 Document the methodology and sources used to service existing data and estimations;
- 6.3.2 Existing traffic conditions- average daily and peak hour volumes, average and peak speeds, sight distances, accident data for the previous 3 years, and levels of service (LOS) of intersections and streets affected by the proposed development. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries, and shall be no more than 12 months old at the date of application, unless other data is specifically approved by the Board.
- 6.3.3 Projected traffic conditions for design year of occupancy shall include: statement of design year of occupancy, average annual background traffic growth, impacts of proposed developments which have already been approved, under construction and /or are pending before a town board.
- 6.3.4 Projected impacts of the proposed development shall include: Projected peak hour and daily traffic generated by the development on roads and ways in the vicinity of the development; sight lines at the intersections of the proposed access connection and adjacent streets; existing and proposed traffic controls in the vicinity of the proposed development; and the projected post development traffic volumes and levels of service of intersections and streets likely to be affected by the proposed development.
- 6.3.5 Proposed mitigation shall include: A plan (with supporting text) to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means; and an interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems. Measures shall be proposed to achieve the following post-development standards:
 - (i). All streets and intersections to be impacted by the project shall have the same Level of Service or better than pre-development conditions.

6.4 Traffic Impact Standards

Required: The “level of service” (LOS) of all impacted intersections and streets shall be adequate following project development. For purposes of this standard:

- 6.4.1 “Level of service” (LOS) shall be determined according to criteria set forth by the Highway Capacity Manual;
- 6.4.2 “Impacted” means located within 1,000 feet of the closest boundary of the project site and projected to receive at least five percent (5%) of the anticipated average daily or peak hour traffic generated by the proposed development;
- 6.4.3 “Adequate” shall mean a level of service of “B” or better for rural, scenic and residential streets and for all new streets and intersections to be created in connection with the project; and “D” or better for all other streets and intersections; and

The proposed Special Permit shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

- 6.4.4 Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.
- 6.4.5 Where possible, driveways shall not be located opposite similar driveways.
- 6.4.6 Sharing of access driveways by adjoining properties and uses is encouraged.
- 6.4.7 Left-hand turns and other turning movements shall be minimized.
- 6.4.8 Driveways shall be so located and designed as to discourage the routing of vehicular traffic to and through residential streets.
- 6.4.9 Pedestrian and bicycle circulation shall be separated from motor vehicle circulation as far as practicable.

Section VII - Severability of Provisions

The provisions of these rules and regulations are severable. If any provision of these Rules and Regulation is held invalid, the other provisions shall not be affected thereby. If the application of these rules and regulations, or any of its provisions to any person or circumstances is held invalid, the application of these rules and regulations and their provisions to other persons and circumstances shall not be affected thereby.

Section VIII - Waiver of Full Compliance

Full compliance with these rules and regulations may be waived by the Planning Board, provided such waivers are deemed to serve the public interest and are not conflicting with Chapter 40A M.G.L. Requested waivers shall be submitted in writing at the time of the application accompanied by reasons the waiver(s) if granted would benefit the residents of the Town of Berkley.

Section IX - Violations

Written notice of any violation of this bylaw shall be provided by the Zoning Enforcement Officer/Building Inspector to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than 30 days be allowed for either compliance or revitalization of a plan for longer-term compliance. In the enforcement of this bylaw, the Building Inspector shall notify the Health Inspector of any violations and seek the Health Inspector's and/or Agent's assistance.

Section X - Definitions:

Access: A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.

Access Connection: Any driveway, street, curb cut, turnout or other means of providing for the movement of vehicles to or from the public/private roadway network.

Best Management Practices (BMP): For the purposes of storm-water management structural or nonstructural and managerial techniques that are recognized to be the most effective and practical means to prevent or reduce non-point source pollutants from entering receiving waters in accordance with Stormwater Management Volume I and II prepared by: MA Department of Environmental Protection and MA Office of Coastal Zone Management as most recently revised.

Cross Access: A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

Directional Median Opening: An opening in a restrictive median, which provides for the specific movements and physically restricts other movements. Directional median opening for two opposing left or "U-turn" movements along a road segment are considered one directional median opening.

Drive-Through Facility: A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is served without exiting the vehicle.

This shall not include the selling of fuel at a gasoline filling station or the accessory functions of a carwash facility such as vacuum cleaning stations.

Driveway/ Curb Cut Spacing: The distance between connections, measured from the closet edge of pavement of the driveway or curb cut to the next closest edge of the pavement along the public/private roadway.

Fast Food Restaurant: Any restaurant serving the majority of its food in disposable containers, packages, or other similar wrapping, for consumption on or off the premises.

Joint Access (or Shared Access): A driveway connecting two or more contiguous sites to the public/private street systems.

Leveling Area: A level area (thirty (30) feet in depth at -1% grade) at the intersection of the access connection and the public way.

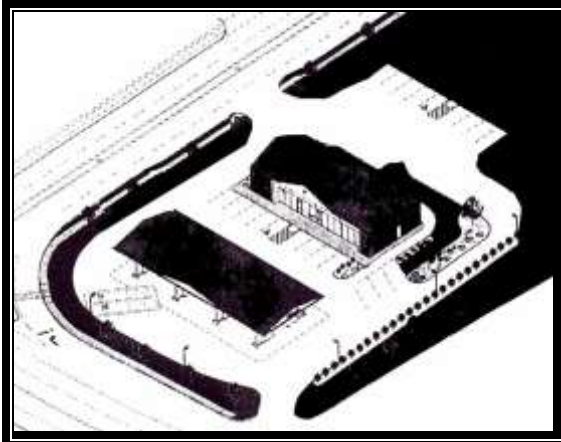
Lot, Corner: Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

Restrictive Median: A physical barrier in the roadway that separates traffic traveling in opposite directions, such as a concrete barrier or landscaped island.

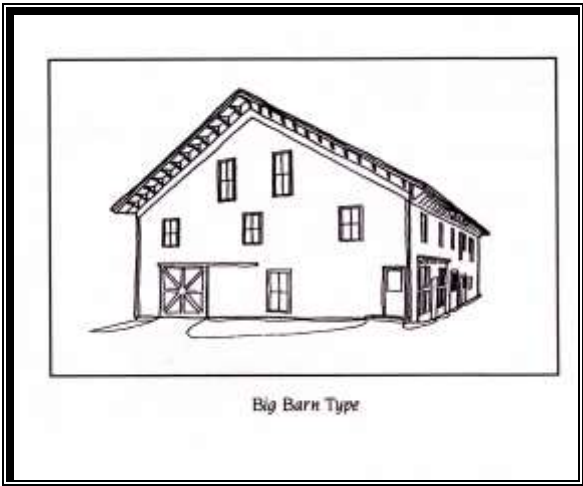
Stacking Lane: An area of stacking spaces and driving lane provided for vehicles waiting for drive-through service, that is physically separated from other traffic and pedestrian circulation on the site.

Stacking Space: An area within a stacking lane for vehicles waiting to order and/or finish a drive – through transaction.

Appendix:



Access points shall be located away from intersection. Note restrictive median along roadway to the upper left-hand side.



Commercial Building could be designed to resemble large barns.



Commercial Buildings could be designed to allow apartments or office on the second story.



Extended Farm House



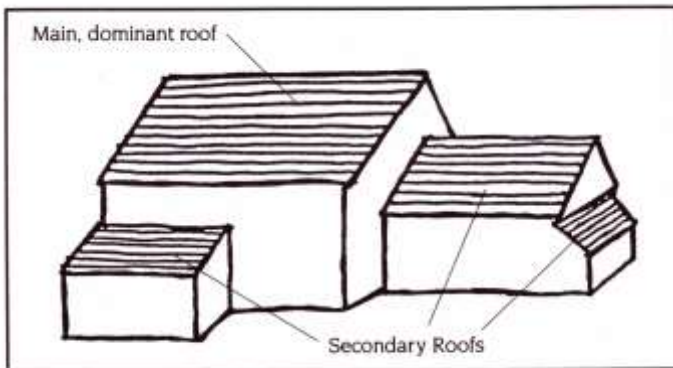
Commercial /office buildings could be designed as extended farmhouses.



Inappropriate outdoor storage and display



Appropriate outdoor storage and display



Shed & Gable Additions to Gable-Roofed Buildings

In larger buildings more complex roofs are encouraged, however the secondary roofs should be smaller and lower than the main roof-line.