



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

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What is a Special Permit?

The "essential and dominating design" of any zoning law "is to stabilize property uses in the specified districts in the interests of the public health and safety and the general welfare, and not to permit changes, exceptions or relaxations except after such full notice as shall enable all those interested to know what is projected and to have opportunity to protest, and as shall insure fair presentation and consideration of all aspects of the proposed modification." Kane v. Board of Appeals of Medford, 273 Mass. 97, 104 (1930).

"The primary purpose of zoning with reference to land use is the preservation in the public interest of certain neighborhoods against uses which are believed to be deleterious to such neighborhoods." Circle Lounge & Grille, Inc. v. Board of Appeal of Boston, 324 Mass. 427, 431 (1949).

"Zoning ordinances or by-laws shall provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law, and shall be subject to general or specific provisions set forth therein; and such permits may also impose conditions, safeguards and limitations on time or use." G.L. c. 40A, § 9.

Zoning regulations are not intended to be "technical requirements[s] difficult of performance by the unwary." Kane, 273 Mass. at 104. Instead, they are "dictated by common sense for protection of an established neighborhood to be subject to change only after fair notice." Id.

Special permit procedures have long been used to bring flexibility to zoning classifications by providing for specific uses that may be desirable but "which are not allowed as of right because of their potential for incompatibility with the characteristics of the district." SCIT v. Planning Bd. of Braintree, 19 Mass. App. Ct. 101, 109 (1984). Uses most commonly subjected to special permit requirements are those "regarded as troublesome (but often needed somewhere in the municipality, for example, gasoline service stations, parking lots, and automobile repair garages)" and uses "which would

be incompatible in a particular district unless conditioned in a manner which makes them suitable to a given location." Id.

The Hopedale Zoning By-Laws require special permits in numerous situations. Some examples include the following:

1. non-conforming uses (§§ 4.1, 4.2, 4.5, 4.6)
2. home-based beauty parlors and barber shops (§ 6.1(b)(2))
3. home-based trades (§ 6.1(b)(5))
4. home-based repair shops (§ 6.1(b)(6))
5. accessory apartments (§ 6.3)
6. off-street parking not specified in by-laws (§ 8)
7. relief from specified off-street parking requirements (§ 8)
8. earth removal (§§ 9.3, 9.7)
9. uses in specified districts (§ 11)
10. groundwater protection district (§§ 17.5, 17.6, 17.7)

Keep in mind that no one is entitled to a special permit (see special permit checklist on this website). The decision to grant or deny "special permits is within the discretion" of the Zoning Board of Appeals. ACW Realty Management, Inc. v. Planning Board of Westfield, 40 Mass. App. Ct. 242, 246 (1996). Even if a "special permit could lawfully be granted by the board because the applicant's evidence satisfied the statutory and regulatory criteria, the board retains discretionary authority to deny the permit." Davis v. Zoning Board of Chatham, 52 Mass. App. Ct. 349, 356 (2001).

The partial list provided here is for informational purposes only. Property owners are encouraged to review the Hopedale Zoning By-Laws and to contact the Building Commissioner before starting any construction projects.