

Chapter 198. Zoning

Article III. General Regulations

§ 198-29.8. Historic site reuse special permit.

[Added 5-4-2019 STM by Art. 13]

- A. Purpose. The purpose of the historic site reuse special permit is to promote the adaptive reuse of eligible municipally owned buildings no longer used by the Town for municipal purposes for residential use that protects the historic character by modifying those general zoning regulations, including parking and loading, lot and building dimensions, density and use limitations, which would otherwise make such preservation infeasible, while protecting the health, welfare, aesthetics and character of the neighboring community.
- B. Eligible building and lot.
- (1) Any municipally owned building constructed before 1920 and no longer used by the Town for municipal purposes will be eligible for consideration for a special permit under this section.
 - (2) The lot on which an eligible building is situated, and any adjoining lots which were used in common with the eligible building for its principal municipal use shall be eligible for a historic site reuse special permit.
- C. Special permit granting authority. The special permit granting authority shall be the Planning Board.
- D. Application and fee.
- (1) The applicant shall submit to the Planning Board a hardcopy original and a digital copy of the special permit application along with 10 hardcopy prints and a digital copy of the proposed project plans, including the site plan for the property subject to the special permit, and construction plans sufficient in detail to show all proposed modifications to existing zoning requirements.
 - (2) The application and plans shall provide:
 - (a) A statement of the facts supporting the eligibility of the subject building for special permit.
 - (b) A description of the proposed project, including the planned alteration or reconstruction of the eligible building, the planned alteration, reconstruction or construction of any other structures and the proposed uses.
 - (c) A detailed statement of all proposed modifications to zoning bylaw requirements.
 - (d) An analysis of the project prepared by a qualified professional Massachusetts licensed architect or Massachusetts licensed engineer addressing the feasibility of the project; the reason modification of zoning regulations is needed to make the project feasible; and the impact of each of those modifications on the neighboring community.
 - (e) A description of the proposed plans for preservation of the historic building and site, including plans for maintenance and the financial mechanism for the cost of maintenance.
 - (f) A proposal, with draft legal documentation, to provide assurance of the continued maintenance of the historic building and site, specifically granting the Town of Fairhaven standing and authority to enforce continued protection and maintenance of the historic site.
 - (3) The plans shall provide:
 - (a) Actual dimensions of the lot or lots subject to the proposed special permit.
 - (b) All easements existing or proposed.
 - (c) Location and size of existing and proposed structures, including any existing structures within 300 feet of the site.
 - (d) Name, width and condition of all abutting streets.
 - (e) All proposed parking and driveway areas, including curbing and planting islands.
 - (f) Existing and proposed topography at two-foot minimum contours.
 - (g) Existing and proposed water, sanitary and storm drainage facilities, noting any new construction and/or new impervious surface area and areas that may be subject to stormwater regulations.

(h) Detailed elevation drawings of all existing and proposed buildings.

(i) The stamp and seal of the design professional responsible for the plans.

(4) The applicant shall pay a fee, in an amount determined by the Planning Board, sufficient to pay the cost to the Planning Board of professional services for review and advice concerning the proposal.

E. Interdepartmental communication. The Planning Board shall submit a copy of the application and the plans to the Building Department, the Fairhaven Historical Commission, the Board of Selectmen, the Board of Public Works, and the Fire Department and any other boards as appropriate. Comments by any board should be submitted to the Planning Board for inclusion in the special permit application record. If no comment is made by one of these boards to the Planning Board within 30 days of receipt, no objection by the recipient board shall be assumed.

F. Public hearing. The Planning Board shall hold a public hearing in conformance with MGL c. 40A, § 9, and special permit public hearing notification requirements of MGL c. 40A, § 11, on the application for special permit within 65 days of submission to the Board, and a decision will be rendered by the Board within 90 days following the date of the hearing.

G. Issuance of special permit. A special permit for historic site reuse may be issued under this section by a two-thirds vote of the Planning Board upon a determination by the Board that the proposed structures and uses are in harmony with the general purpose and intent of the zoning bylaws, protect the essence of the historical property and the particular purpose and intent of this section, and conditioned on the following standards being met by the proposed project:

(1) The eligible building may be used for multifamily residential use.

(2) The frontage and side setback for the eligible building will be those in existence prior to any alteration which may be allowed by the special permit.

(3) Any addition to the historic building shall be at the rear of the building opposite the primary fronting street line, and facing the primary rear lot line. (For purposes of this provision, the side lines of corner lots shall not be considered front or rear lot lines.) The lot size, building lot coverage and yard dimension requirements may be decreased by up to 20% on the primary lot with the historic building on it in order to make any such addition to the historic building feasible.

(4) Any new lots and their development areas which may be created and allowed by the special permit shall be similar to the existing average size of lots of the surrounding neighborhood, which shall include abutting lots, and opposing lots on fronting street lines (even if the average lot size does not conform to existing zoning).

(5) Any new residential structures shall not be larger than the average size of the existing houses in the surrounding neighborhood, which shall include abutting lots, and opposing lots on fronting street lines.

(6) Unless expressly waived by the Planning Board, the off-street parking requirements to service the eligible historic building will be the existing parking prior to any alteration, or the requirements found in Fairhaven Zoning Chapter **198**, § **198-27B(1)(a)** and **(b)** (two bedrooms or more: two parking spaces; less than two bedrooms: one parking space).

(7) Unless expressly waived by the Planning Board, the off-street parking requirements to service any new residential structures which may be allowed by special permit will be the requirements set forth in this bylaw, or the average off-street parking on those developed properties abutting the eligible lot, whichever is less.

(8) The property for which a special permit is granted pursuant to this section shall not be subject to the requirements of §§ **198-27** (Parking; loading and landscaping requirements) and 198-29 (Special permits for certain intensive nonresidential and multifamily site developments) of this zoning bylaw.

(9) The applicant shall enter into protective covenants or other legal devices to preserve and maintain the exterior, and to the extent the Planning Board deems appropriate, the interior historic integrity and character of the eligible building.

(10) The applicant shall enter into appropriate covenants or otherwise guarantee timely completion of the proposed work that preserves and maintains the historic character of the eligible building.

(11) The Board may impose such other conditions as it deems proper to ensure compliance with the purpose of this article.