

**LOCAL LAW TO BE ENACTED BY
THE BOSTON TOWN BOARD
TOWN OF BOSTON, NEW YORK**

2022 LOCAL LAW NO. 1

A LOCAL LAW Providing for Waiver of Site Plan Review for Certain Minor Projects.

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BOSTON AS
FOLLOWS:**

Section 1. Legislative Intent.

This Local Law amends Town Code Chapter 97, Site Plan Review, and Chapter 123, Zoning, to provide a mechanism for the waiver of formal site plan review and its attendant costs and delays for certain minor projects where formal site plan review is not practical or necessary to ensure safe and orderly development.

Section 2. Amend Chapter 97 of the Boston Town Code, Site Plan Review.

Article I: General Provisions, § 97-3, *Initiation*, is hereby amended to read as follows:

97-3 Initiation.

Site plan review shall be initiated by the filing of a conceptual plot plan, as hereinafter provided, with the Town Clerk. The Town Clerk shall then transmit the conceptual plot plan to the Planning Board for action in conformance with this chapter. Unless an applicant requests that the conceptual plot plan not be considered for a potential site plan waiver pursuant to Section 123-163 of this Code, prior to being placed on the Planning Board agenda to commence formal review, conceptual plot plans may be reviewed for a site plan waiver as described in Section 123-163 if identified by the Building Inspector, Town Engineer, Town Planner or Planning Consultant, or the Planning Board Chairman as potentially meeting the criteria for a site plan waiver or if the applicant submits a cover letter requesting review under that Section.

Section 3. Amend Chapter 123 of the Boston Town Code, Zoning.

Article XXX: Site Plan Review, § 123-163, *When required; exceptions*, is hereby amended to read as follows:

123-163 When required; exceptions.

- A. Unless otherwise provided and as regulated by the subdivision regulations of the Town of Boston, site plan review and a site plan approval shall be required for all uses, buildings and structures that require a building permit or a certificate of zoning compliance under this chapter and for which an application has been made to the Town of Boston, except for a farm or single-family dwelling and their permitted accessory uses, buildings or structures, prior to the issuance of a building permit or certificate of zoning compliance.
- B. Site Plan Waiver
- (1) As an optional alternative to formal site plan review and site plan approval, a site plan waiver may be issued if a proposed project is minor in nature to the extent that a full site plan review may not be necessary. In such case, if an existing previously approved site plan is on file with the Town and the modifications are deemed in the exercise of their discretion to be minor by the unanimous written approval of the Site Plan Waiver Committee, consisting of the Building Inspector, the Town Engineer, the Town Planner or Planning Consultant, and the Planning Board Chairman, a site plan waiver may be issued upon payment of the required fee. Once the site plan waiver is approved, the applicant may apply for a Building Permit. Applicants who believe their project may qualify for a site plan waiver under this Section may request review pursuant to this Section when submitting a conceptual plot plan as provided by Section 97-3 of the Town Code, and applicants who do not wish to be considered for a site plan waiver may request to proceed with the full site plan approval process at any time.
- (2) A project may be determined to be minor in nature and a site plan waiver may be issued at the discretion of the Site Plan Waiver Committee if the proposed project is not subject to review under the State Environmental Quality Review Act and meets one (1) or more of the following criteria:
- (i) Additions of less than 1,200 square feet or that represent less than 10% of the existing structure, where no variances are needed for construction.
 - (ii) Accessory buildings or additions that are not visible from the road or adjoining residential uses, provided any required variances are secured prior to issuance of a site plan waiver.
 - (iii) Renovations or alterations associated with a minor change in use, not requiring a variance, that do not require additional parking.

- (3) In all cases, to be eligible for a site plan waiver under this Section for a proposed new project, an existing site plan for the project site shall be on file with the Town, and the site shall be in general conformance with previously approved site plan or plans as applicable. The site plan waiver may include conditions that must be met for the issuance of the Building Permit.
- (4) In certain cases, the preparation of a complete site plan application or any part thereof may be deemed necessary to meet the requirements of a site plan waiver process.
- (5) A proposed project may be denied a site plan waiver and required to submit to site plan review by the Planning Board and site plan approval by the Town Board if any member of the Site Plan Waiver Committee is unavailable, including in the event of recusal for a conflict of interest, or for any reason refuses to provide their written approval of a site plan waiver. Site Plan Waiver Committee members may but shall not be required to state the reason for their refusal to provide written approval of a site plan waiver. Any Site Plan Waiver Committee member may refuse a waiver for any reason, including, but not limited to, concerns regarding the nature, scope, location, aesthetics, applicability of site plan waiver criteria, or sufficiency of available information regarding the proposed project, a determination that input from the formal review process may be relevant to the proposed project, the member's lack of time or resources to complete their review of the project, or for any other reason deemed good and sufficient in the discretion of the member.
- (6) Determinations and approval conditions for a site plan waiver may only be appealed by the applicant by filing a complete formal site plan application subject to site plan review by the Planning Board and approval by the Town Board.
- (7) Written documentation of the site plan waiver shall be placed in the appropriate permanent Town file for the project and shall include documentation of the criteria from Section 123-163(B)(2) providing grounds for the waiver, the written consents of the Site Plan Waiver Committee members required pursuant to Section 123-163(B)(1), and any conditions for building permit issuance established pursuant to Section 123-163(B)(3). Approval of any site plan waiver under this Section shall remain in effect for a period of not more than six (6) months unless a successful application for a building permit has been made within that period.

Section 3. Authority.

This Local Law is enacted pursuant to Article 16 of the Town Law of the State of New York, including Town Law Section 274-a, Section 10 of the Statute of Local Governments, and Section 10 of the Municipal Home Rule Law and.

Section 4. Severability.

A. This Local Law shall be deemed to supersede and repeal any other Local Laws to the extent therein inconsistent herewith.

B. If any part of this Local Law shall be judicially declared invalid void unconstitutional or unenforceable all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

C. Nothing herein shall be deemed to be a waiver or restriction upon any rights and powers available to the Town of Boston to further regulate the subject matter of this Local Law.

Section 5. Effective Date.

This Local Law shall become effective upon filing with the Secretary of State of the State of New York as required by the Municipal Home Rule Law.

Sponsor: Councilmember Lucachik