



WESTPORT PLANNING BOARD

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January 26, 2022

Westport Select Board
816 Main Road
Westport, MA 02790

RE: Town of Westport Proposed Zoning Amendments

Dear Board Members,

At a joint meeting with members of the Zoning Board of Appeals on January 4, 2022, the Planning Board voted to initiate amendments to the Town of Westport Zoning By-law pursuant to MGL 40A § 5 for consideration at the 2022 Annual Town Meeting (ATM). The following proposed amendments are attached:

Article A.

- Item 1. Amend Section 3. DEFINITIONS by adding the Definition of "Sign". (see attached)
- Item 2. Amend Section 8.4 SIGNS by deleting in its entirety and inserting/replacing with the following: (see attached)

Article B.

- Item 1. Amend Section 9.5 ACCESSORY APARTMENT by inserting PURPOSE & INTENT labeled as SECTION 9.5.1 to read the following: (see attached)
- Item 2. Amend Section 9.5 ACCESSORY APARTMENT subsection 9.5.1 "Attached Accessory Apartment" to read as Section 9.5.2. (see attached)
- Item 3. Amend Section 9.5 ACCESSORY APARTMENT subsection 9.5.2. "Detached Accessory Apartment" by deleting Letter "a." PURPOSE & INTENT" in its entirety. (see attached)
- Item 4. Amend Section 9.5 ACCESSORY APARTMENT subsection 9.5.2 to read 9.5.3 "Detached Accessory Apartment", and to insert and delete the following under letters d,g and j, which will become c, f and i. (see attached)

Article C:

- Item 1. Amend Section 3. DEFINITIONS by adding the Definition of "Agrivoltaic – Dual Use Solar" to read the following: (see attached)

Item 2: Amend Section 9.6.3. LARGE SCALE SOLAR ENERGY SYSTEMS by changing “Maximum height (2)” and “Maximum clearing area (4)” of the use table Letter H “Dimensional, Use and Access Requirements for Large Scale Systems (Lot Size, Frontage, Setbacks and Height”, and by inserting and deleting the associated wording to reflect the changes to the Use Table. (see attached)

Article D:

Item 1: Amend Section 9.7 HOME OCCUPATIONS by inserting the following wording to the first paragraph. (see attached)

Item 2: Amend Section 9.7 HOME OCCUPATIONS by adding subsection 9.7.1. “Home Occupation – As of Right”, with the following: (see attached)

Item 3: Amend Section 9.7 HOME OCCUPATIONS by adding the subsection 9.7.2. “Home Occupation – By Special Permit” with the following: (see attached)

Article E:

Item 1: Amend Section 6.3 TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT subsection 6.3.6 “Special Permit Procedures” by re-naming the existing Letter “a.” as Letter “b.” and re-naming the existing Letter “b.” as Letter “c.” in order to insert the following as the new Letter “a.” under “Submittal Requirements”:

Item 2: Amend Section 6.3 TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT subsection 6.3.6. “Required Findings” by adding a Letter “d” with the following: (see attached)

Article F:

Item 1: Amend Section 5. USE REGULATIONS subsection 5.2 “Non-conforming Uses” by deleting and inserting the following under 5.2.1 “Abandonment”: (see attached)

The Planning Board requests that the Board of Selectmen move to return the proposed zoning amendments back to the Board for review within fourteen (14) days. Accordingly, the Planning Board will hold a public hearing for consideration and input. The Planning Board will also be requesting review of the By-laws by Town Counsel.

Sincerely,

James Whitin, Chairman
Westport Planning Board

JW/am

*text highlighted in yellow depict proposed insertions, words with a strikethrough indicate proposed deletions.

Article A.

Item 1.

Amend Section 3. DEFINITIONS by adding the following Definition in alphabetical order:

Sign: Any letter, word, symbol, drawing, picture, design, device, article, or object that advertises, calls attention to or indicates any premises, person or activity, whatever the nature of the material and manner of composition or construction, when the same is placed out of doors in view of the general public or placed indoors for exterior observance, except temporary indoor paper signs advertising sales, promotions or special events.

Item 2.

Amend Section 8.4 SIGNS by deleting in its entirety and inserting the following:

8.4 SIGNS

~~8.4.1 The provisions of Section 29-33, Chapter 93 G.L., (relating to outdoor advertising), and the Rules and Regulations adopted thereunder by the Outdoor Advertising Division of the Massachusetts Highway Department.~~

~~8.4.2 Nothing in this By Law shall be construed to abrogate:~~

~~A. The Town's control under Ch. 87, Section 9, governing signs placed on shade trees, enforceable by the Tree Warden;~~

~~B. The Town's control under Ch. 85, Section 8, over signs placed within a public way, enforceable by the Selectmen;~~

~~C. The Town's control under Ch. 111, Section 123 to 125, governing Board of Health action against nuisances.~~

Section 8.4 SIGNS

8.4.1. PURPOSE AND INTENT.

The purpose and intent of this bylaw shall be to assure that all signs be appropriate to the land, building or use to which they are appurtenant; be protective of property values and the safety of the public; and not unnecessarily detract from the historic qualities and characteristics of the Town of Westport.

8.4.2 RESIDENTIAL DISTRICT

Signs are prohibited in the Residential District, except as described below.

In a residential district, the following signs are permitted:

- 1) A sign of not more than two (2) square feet in area, displaying the street number and/or the name of the occupant of the property.
- 2) One professional or home occupation sign, or one sign identifying a nonresidential building or use permitted in a residential district, not to exceed six (6) square feet. When more than one business exists on a residential district site, the total area of signs on that site shall not exceed six square feet.
- 3) One sign identifying each public entrance to a subdivision or multifamily development such as apartments or townhouses, of not more than six (6) square feet in area. In addition, each family unit may be identified by a single sign of not more than one (1) square foot, without time limit.
- 4) Residential for sale or rent signs not to exceed three (3) square feet

8.4.3 BUSINESS AND UNRESTRICTED DISTRICT

Signs advertising goods or services offered by an occupant of the premises for sale, hire or use, are permitted provided however that any such sign in the Westport Point Historic District is subject to the approval of the Westport Historic District Commission and further provided that signs shall not exceed seven (7) square feet for one business, or In the case of a building containing more than one business, the following shall apply:

- 1) One street side sign not to exceed seven (7) sq. ft. to identify the complex itself.

- 2) Individual businesses within the complex identified at street side with 12" x 36" signs arranged vertically a single structure.
- 3) Each business within the complex may have one 2 sq. ft. sign located at the doorway for business identification.

8.4.4 SCIENCE AND TECHNOLOGY OVERLAY DISTRICT (STOD)

See Section 5.6.7.N for special requirements for signs located in a Science Technology Overlay District.

8.4.5 ALLOWABLE TEMPORARY SIGNS

- 1) Real Estate Signs. On any lot there shall be no more than one temporary sign not exceeding seven (7) square feet in area, pertaining to lease or sale of the lot or building on which such sign is placed. The sign shall be permitted for a period not to exceed seven (7) days after such sale or lease execution.
- 2) Contractor Signs. One temporary sign, not exceeding seven (7) square feet in area, may be allowed on site during construction for a period not to exceed seven (7) days after completion of such work.
- 3) Event Signs. On any lot there shall be no more than one temporary special event sign not exceeding seven (7) square feet in area. Special event signs shall be erected for no longer than 4 weeks and are to be removed within two business days following the event.

8.4.6 ALLOWABLE PERMANENT SIGNS

On any lot there shall be no more than one such sign pertaining to the use thereof or having the name and occupation of the occupant or occupants, and no such sign shall exceed two (2) square feet in area. All permanent signs located in the Westport Point Historic District are subject to Westport Historic District Commission review and approval.

8.4.7 SPECIAL PERMIT

The Planning Board may in each case issue a Special Permit for a Special Exceptions for the erection of larger signs, either temporary or permanent, which they deem not detrimental to the surrounding property nor injurious to the public welfare, provided however that any such permitted sign in the Westport Point Historic District is also subject to the approval of the Westport Historic District Commission.

8.4.8 GENERAL STANDARDS FOR SIGNS

The following standards apply to all signs:

- 1) No sign shall be erected to obstruct any fire escape, window, door, or other opening or to prevent free passage from one part of a roof to any other part thereof.
- 2) No sign shall be attached in any manner to a fire escape or shall be placed to interfere with an opening which is required for ventilation.
- 3) No sign shall be erected that shall in any way create a traffic hazard nor in any way obscure or confuse traffic control.
- 4) No sign or sign structure shall interfere in any way with a public way, including sidewalks.
- 5) Letters, figures, characters, or representations in cutout or irregular form, maintained in conjunction with, attached to or superimposed upon any sign, shall be safely and securely built or attached to the sign structure.
- 6) Signs shall be designed, constructed, and erected in accordance with the State Building Code.
- 7) No sign shall be posted on or attached to utility poles, trees, nor attached to any parapet.
- 8) No non-municipal sign shall be located on public property, including sidewalks, roadsides and roadways without permission from the Town and otherwise in compliance with the provisions of this Section.

8.4.9 ILLUMINATED SIGNS

The following additional standards apply to illuminated signs.

- 1) No internally illuminated signs are permitted.
- 2) Exterior illumination of signs shall be so shaded, shielded or directed as to create minimum ambient light, and so as not to reflect or shine on or into neighboring premises or into any public street. All lighting shall comply with the International Dark Sky Association (IDA) "fixture seal of approval" program certification standards.
- 3) Neon lighting will not be permitted.

- 4) Interior illuminated signs will not be permitted, with the exception of barber poles on barber shops.
- 5) Illuminated signs are not permitted within residential districts without a Special Permit.
- 6) No red or green or other colored lights shall be used on any sign if such light would create a driving hazard.
- 7) No sign may be illuminated more than thirty (30) minutes after closing of any store or business or thirty (30) minutes after working hours in a commercial building, except signs identifying public buildings; provided however, that the Planning Board, in granting a Special Permit, may, for good cause shown, extend the time during which a sign may be illuminated.

8.4.10 MOVING SIGNS

Swinging signs, flashing signs, revolving signs, and signs consisting of pennants, ribbons, streamers, spinners, strings of light bulbs, revolving beacons, searchlights, animated signs, and signs illuminated to create the illusion of motion are prohibited.

8.4.11 SPECIAL PERMIT

Notwithstanding the provisions set forth in this Section, in unique circumstances the Planning Board may authorize nonconforming signs or a greater number of signs by the grant of a Special Permit, where such relief is found to be warranted due to unique circumstances associated with the site, building or use and is not detrimental or deleterious to the neighborhood or the Town.

8.4.12 EXEMPTIONS

No permit is required for the following types of signs:

- 1) Any sign legally erected before the date of the effective date of this Section shall be exempt from the requirements in this Section.
- 2) Any sign erected or required by the Town or by the Commonwealth of Massachusetts or by the United States, or any subdivision or agency thereof, or for any sign intended solely for the (public good)

8.4.13 LAPSE

A sign Special Permit shall become null and void if the work for which the permit was issued has not been completed within a period of twelve (12) months from the date of the permit; provided, however, that the Planning Board may, in its discretion, issue extensions covering a period not to exceed an additional one (1) year from the date of issue of the original permit. The applicant shall notify the Building Inspector of completion of work under a permit within ten (10) days of completion.

8.4.14 SIGN RELATED PROVISIONS

- 1) The provisions of Section 29-33, Chapter 93 G.L., (relating to outdoor advertising), and the Rules and Regulations adopted thereunder by the Outdoor Advertising Division of the Massachusetts Highway Department.
- 2) Nothing in this By-Law shall be construed to abrogate:
 - a. The Town's control under Ch. 87, Section 9, governing signs placed on shade trees, enforceable by the Tree Warden;
 - b. The Town's control under Ch. 85, Section 8, over signs placed within a public way, enforceable by the Selectmen;
 - c. The Town's control under Ch. 111, Section 123 to 125, governing Board of Health action against nuisances.

Article B.

Item 1. Amend Section 9.5 ACCESSORY APARTMENT by inserting PURPOSE & INTENT labeled as SECTION 9.5.1 to read the following:

9.5 ACCESSORY APARTMENT

9.5.1 PURPOSE AND INTENT

Purpose and Intent: The intent of permitting an accessory apartment is to:

1. Provide homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
2. Develop housing units in neighborhoods that are appropriate for households at a variety of stages in their life cycle.
3. Provide housing units for persons with disabilities.
4. Protect stability, property values, and the residential character of a neighborhood.

Item 2: Amend Section 9.5 ACCESSORY APARTMENT subsection 9.5.1 "Attached Accessory Apartment" to read as Section 9.5.2.

9.5.12 Attached Accessory Apartment

Use of an accessory apartment, an independent dwelling unit with a minimum area of five hundred (500) square feet not to exceed nine hundred (900) square feet contained within a single-family residence. The unit shall have a separate exterior entrance, a kitchen/living room, a bathroom and a maximum of one bedroom. Either unit shall be occupied by the owner. The gross floor area shall include the interior finished habitable area to be used exclusively for the accessory apartment.

Item 3. Amend Section 9.5 ACCESSORY APARTMENT subsection 9.5.2. "Detached Accessory Apartment" by deleting Letter "a." PURPOSE & INTENT" in its entirety.

9.5.23 Detached Accessory Apartment

The Zoning Board of Appeals may issue a Special Permit authorizing the installation and use of a detached accessory apartment in a detached structure on a lot containing a single-family dwelling provided the following conditions are met:

~~—a.— Purpose and Intent: The intent of permitting a detached accessory apartment is to:~~

- ~~1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.~~

- ~~2. Develop housing units in single family neighborhoods that are appropriate for households at a variety of stages in their lifecycle.~~
- ~~3. Provide housing units for persons with disabilities.~~
- ~~4. Protect stability, property values, and the residential character of a neighborhood.~~

Item 4. Amend Section 9.5 ACCESSORY APARTMENT subsection 9.5.2 to read 9.5.3 “Detached Accessory Apartment”, and to insert and delete the following under letters d,g and j, which will become c, f and i.

9.5.23 Detached Accessory Apartment

The Zoning Board of Appeals may issue a Special Permit authorizing the installation and use of a detached accessory apartment in a detached structure on a lot containing a single-family dwelling provided the following conditions are met:

~~a. Purpose and Intent: The intent of permitting a detached accessory apartment is to:~~

- ~~1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.~~
- ~~2. Develop housing units in single family neighborhoods that are appropriate for households at a variety of stages in their lifecycle.~~
- ~~3. Provide housing units for persons with disabilities.~~
- ~~4. Protect stability, property values, and the residential character of a neighborhood.~~

b.a. The detached accessory apartment will be a complete, separate housekeeping unit containing a kitchen/living room, a bathroom and a maximum of one bedroom. Only one accessory apartment may be created within a single-family dwelling or house lot.

e.b. Detached accessory apartments shall be occupied by no more than 2 persons.

d.c. The owner(s) of the property in which the detached accessory apartment is created must occupy at least one of the dwelling units. The gross floor area of a detached accessory apartment shall not be greater than ~~seven hundred fifty (750)~~ **nine hundred (900)** square feet. The gross floor area shall include the interior finished habitable area to be used exclusively for the accessory apartment.

e.d. Off-street parking spaces shall meet the requirements of Section 8.3 of these bylaws.

f.e. Any new construction shall be in accordance with current height and setback requirements for the district in which it is located.

g.f. ~~The septic system must meet the requirements of the Westport Board of Health and the State Sanitary Code.~~ **Prior to approval of the Special Permit for a detached accessory apartment,**

the septic system that will accommodate the additional bedroom must be approved by the Westport Board of Health and comply with the State Sanitary Code.

h.g. Any property that has been granted a Special Permit for a detached accessory apartment shall not be further divided unless all zoning requirements can be met for the district in which it is located.

i. h. Prior to approval of a Special Permit for a detached accessory apartment the Board shall make the following findings:

1. The detached accessory apartment will not impair the integrity or character of the neighborhood in which it is located.

2. The detached accessory apartment shall not be detrimental to the abutting properties.

j. i. In order to encourage the development of housing units for disabled individuals and persons with limited mobility, the Zoning Board of Appeals may allow reasonable deviation, from the dimensional requirements where necessary to install features that facilitate access and mobility or to accommodate utilization of existing structure such as a garage or barn.

Article C:

Item 1. Amend Section 3. DEFINITIONS by adding the Definition of “Agrivoltaic – Dual Use Solar” to read the following:

Agrivoltaic – Dual Use Solar: Practice of installing solar photovoltaic panels on farmland in such a manner that primary agricultural activities (such as animal grazing and crop/vegetable production) are maintained simultaneously on that farmland.

Item 2: Amend Section 9.6.3. LARGE SCALE SOLAR ENERGY SYSTEMS by changing “Maximum height (2)” and “Maximum clearing area (4)” of the use table Letter H “Dimensional, Use and Access Requirements for Large Scale Systems (Lot Size, Frontage, Setbacks and Height”, and by inserting and deleting the associated wording to reflect the changes to the Use Table.

H. Dimensional, Use and Access Requirements for Large Scale Systems (Lot Size, Frontage, Setbacks and Height)

	Residence/ Agricultural District	Business District
Minimum Lot Size	5 Acres	5 Acres
Minimum setbacks from property lines (1)	100 ft.	100 ft.
Minimum setbacks from street lines (1)	250 ft.	150 ft.
Minimum setbacks from Wetlands resource areas (1)	100 ft.	100 ft.
Minimum protected open Space (3)	25%	25%
Maximum height (2)	15 ft. ^a	15 ft. ^a
Maximum clearing area (4)	16 12 Acres	16 12 Acres

EXPLANATORY NOTES TO TABLE OF DIMENSIONAL, USE AND ACCESS REQUIREMENTS FOR LARGE SCALE SYSTEMS

a. Except in cases where agriculture is an integral part of the solar plan, an elevation of seventy-two (72) inches at the lowest point and similar increase at all other points in the array, provided that viewsheds from the public ways are not significantly affected, and at the discretion of the Special Permit Granting Authority (SPGA).

(1) Setbacks may be reduced if, in the opinion of the Planning Board based on evidence submitted by applicant, existing and/or proposed screening will be adequate to minimize visual impact (as described in Section 9.6.3.K.4. Under no circumstance will setbacks be reduced to less than the dimensional requirements for the zoning district.

Setbacks may be increased by up to 50% if, in the opinion of the Planning Board based on evidence submitted by the Board or abutters, existing and/or proposed screening will not be adequate to minimize visual impact (as described in 9.6.3.K.4.)

Fencing and structures, including solar panels, shall meet the minimum setback requirements, and clearing or trimming of natural vegetation within the required setbacks shall be prohibited unless the Board finds that the trimming or clearing would not have a detrimental impact on abutting properties. Drainage facilities shall meet the minimum setback requirements unless the Board finds that adequate screening can be provided and in the opinion of the Board, a reasonable alternative design is not feasible.

(2) Height of Structures – No component of a Large-Scale Ground Mounted Solar Photovoltaic Installation shall exceed 15 feet above existing grade (except for connection to the grid).

(a) Except in cases where agriculture is an integral part of the solar plan, an elevation of seventy-two (72) inches at the lowest point and similar increase at all other points in the array, provided that viewsheds from the public ways are not significantly affected, and at the discretion of the Special Permit Granting Authority (SPGA).

(3) Protected open space – Shall equal 25% of the “clearing area”. Protected open space shall be left in their natural state.

(4) Clearing Area – Shall include all areas of the parcel being disturbed, the access drive shall also be included in this area. Clearing areas may be increased by up to 50% provided the Board finds that the visual impact (described in 24.2.11.d) is not detrimental to the abutters or neighborhood. it will not be more visually or environmentally detrimental, including but not limited to (as described in 24.2.11.d) abutters, neighborhood and view corridors.

Access Drive - Access to the facility shall be through actual minimum lot frontage of 50 feet on a street or through a 50-foot-wide easement connecting the development lot to a public way. The physical travelled way for the construction and maintenance of the proposed solar facility shall be a minimum of 12’ wide or such greater width as required by the Planning Board or Fire Department and shall have the lines, grades, surface conditions and drainage facilities, as required.

Article D:

Item 1: Amend Section 9.7 HOME OCCUPATIONS by inserting the following wording to the first paragraph.

9.7 HOME OCCUPATIONS

Home occupations are permitted by right and by Special Permit in the Residential/Agricultural, Business, and Unrestricted Districts in accordance with the following provisions:

Item 2: Amend Section 9.7 HOME OCCUPATIONS by adding subsection 9.7.1. “Home Occupation – As of Right”, with the following:

9.7.1 Home Occupation - As of Right

A home occupation may be allowed as of right, provided that it:

- a. is conducted by the person(s) occupying the dwelling as a primary residence;
- b. is clearly incidental and secondary to the use of the premises for residential purposes;
- c. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
- d. does not produce any excessive customer, pupil or client trips to the occupation site;
- e. does not have any non-nonresident employees.

Item 3: Amend Section 9.7 HOME OCCUPATIONS by adding subsection 9.7.2. “Home Occupation – By Special Permit” with the following:

9.7.2 Home Occupation – By Special Permit

A home occupation may be allowed by special permit issued by the Zoning Board of Appeals, provided that it:

- a. fully complies with Sections 9.7, and 9.7.1. a., b, c. above.
- b. is conducted by the person(s) occupying the dwelling as primary residence and, in addition to the residents of the premises, by not more than one additional employee;
- c. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 9.7.C. and,
- d. a special permit for such use is granted by the Zoning Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily custom vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.

Article E:

Item 1: Amend Section 6.3 TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT subsection 6.3.6 “Special Permit Procedures” by re-naming under “Submittal Requirements” the existing Letter “a.” as Letter “b.” and re-naming the existing Letter “b.” as Letter “c.” in order to insert the following as the new Letter “a.”:

6.3.6 Special Permit Procedures

Submittal Requirements: An application for a permit for a wireless communications tower or other exterior wireless communications facility shall include seven copies of a site plan prepared by a professional engineer or land surveyor registered to do business in the Commonwealth of Massachusetts, which shall show the following at minimum:

a. The applicant shall completely evaluate a minimum of two (2) alternate sites including projected coverage for each site. The applicant shall identify the rationale for the selected site and the rationale for dismissing all alternate sites.

b. Ownership, zoning, use, the general location of structures within two hundred feet of the property line of the lot; and

c. All major site features; including:

- i. Driveways, including widths;
- ii. Parking areas;
- iii. Street line, including widths;
- iv. Roadways, including widths;
- v. Pedestrian walks, including widths;
- vi. Wetlands;
- vii. Drainage, including detail design data, pipe sizing, etc.; and
- viii. Stone walls.

Item 2: Amend Section 6.3 TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT subsection 6.3.6 “Required Findings” by adding a Letter “d” with the following:

Required Findings: The Zoning Board of Appeals may grant a special permit for a tower only if it makes all of the following findings:

a. Existing or approved towers available for use by the applicant cannot accommodate the wireless communications equipment planned for the proposed tower.

b. The design of the tower and supporting facilities will minimize adverse visual effects on the environment to the extent feasible.

c. Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.

d. The applicant has demonstrated that all alternate sites are not acceptable.

Article F:

Item 1: Amend Section 5. USE REGULATIONS subsection 5.2 “Non-conforming Uses” by deleting and inserting the following under 5.2.1 “Abandonment”:

SECTION 5.2. NON-CONFORMING USES

5.2.1 ABANDONMENT/DISCONTINUANCE

~~A non-conforming use, which has been abandoned four years shall not be re-established and any future use shall conform to this By-law.~~ A non-conforming use which has been discontinued for four years or more shall be considered to be abandoned and shall not be re-established and any future use shall conform to this By-law. The four year period may be extended prior to expiration by Special Permit from the Zoning Board of Appeals if it finds there are extenuating circumstances and such extension is not detrimental to the neighborhood or public health, safety and welfare.